

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 44 OF 2018

1. Jaywant Dharma Masane
2. Rajaram Dharma Masane ..Applicants

v/s.

The State of Maharashtra . ..Respondents

Mr. Kamraj Dubey for the Applicant.
Mr. S.R.Agarkar, APP for the State.
Mr. Kiran Tuntane, Police Naik, DYSP Office, Karjat, present.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : SEPTEMBER 27, 2018.**

P.C.

1. At the outset, the learned APP submits that the applicant no.2 has been arrested. In the light of the said statement, the learned Counsel for the applicant submits that he will file regular Bail Application on behalf of the respondent no.2.

2. Heard Mr. Dubey, the learned Counsel for the applicant and Shri Agarkar, the learned APP for the State. I have perused the

records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The records prima facie reveal that based on the first information report lodged by one Alka Ganesh Pawar, Crime No. 269 of 2017 was registered with Karjat Police Station for the offences under Section 143, 147, 148, 149, 324, 354, 504, 506 of IPC. A perusal of the first information report prima facie indicates that on 17th December, 2017 at about 9.30 p.m. the applicants herein, their spouses and other members of the family were taking sand which was brought for the purpose of construction of temple. The informant obstructed the applicant and the other members from taking the said sand. The first informant claims that the applicant no.1 told his mother and wife to lie down in front of the Tractor and threatened to run the vehicle over them and hold the first informant responsible for their death. The first informant has further stated that the wife and the mother of the applicant stripped of their sarees and threatened to implicate them in a false case. The first informant has also stated that the applicant no.1 had abused them and had

rushed towards them with a danda.

4. The FIR does not prima facie indicate that the applicant and the other co-accused had assembled with an intention or object of committing any offence. On the contrary, the material on record prima facie indicates that they had gone to the place of incident to take sand. The altercation and quarrel ensued only after the first informant and others had obstructed them from taking the sand which was brought for construction of the temple.

5. It is to be noted that the FIR does not disclose offence under the provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. In fact, the FIR does not even state that the first informant was a member of either Scheduled Caste or Scheduled Tribe. On 23rd April, the learned APP had tendered a copy of the police report and submitted that the offence punishable under section 3(1)(w), 3(2)(w) of SC & ST Act were added. On 30.8.2018, the learned APP was directed to file an affidavit and place on record the material based on which provisions of SC & ST Act were invoked, as

to enable the applicant to amend the application and convert it to an appeal. The learned APP has however not tendered any such affidavit. The learned APP submits that the supplementary statement of the first informant indicates that he belongs to Katkari Caste. Apart from the said statement, there is no prima facie material to indicate that the applicant had committed any such act, knowing that the first informant and others belonged to Scheduled Caste or Scheduled Tribe. Thus, there is no prima facie material which would justify filing of an appeal or attract bar of Section 18 of SC & ST Act.

6. The nature of the allegations do not justify custodial interrogation. The applicant is a permanent resident of Karjat there is not possibility of the applicant absconding and thwarting the course of justice. The applicant does not have criminal antecedents. Considering these facts and circumstances, the applicant no.1 is entitled for bail on following terms and conditions:-

(i) In the event of arrest of the applicant no.1- Mr. Jaywant Masane in Crime No. 269 of 2017 registered with Karjat Police Station, the applicant be released on bail on furnishing bail bond of

Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(iii) The applicant shall report to the Investigating Officer for four days from 1st October, 2018, and further as and when required by the Investigating Officer for the purpose of investigation and interrogation.

(iv) The applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer.

(v) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

Prasanna
Pradeep
Salgaonkar

Digitally signed by
Prasanna Pradeep
Salgaonkar

Date: 2018.10.04
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(ANUJA PRABHUDESSAI, J.)