

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.2356 OF 2012

1] Sanjay s/o. Shivaji Singare,
age : 45 years, occ. Agri.,
r/o. Kasaba Peth, Dharur,
Tq.Dharur, Dist. Beed.

2] Ajay s/o. Sanjay Singare,
age : 20 years, occ. Student,
r/o. Kasaba Peth, Dharur,
Tq. Dharur, Dist.Beed.

..Applicants

Vs

State of Maharashtra

..Respondent

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Mr.V.D.Salunke, advocate for applicants.

Mr.P.N.Muley, APP for respondent - State.

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CORAM : T.V.NALAWADE, J.

DATE : MAY 31, 2012

[VACATION COURT]

ORAL ORDER :

This application is filed for anticipatory bail in Crime No.30 of 2012 registered in Dharur Police Station, Dharur, Dist Beed for offences punishable under Sections 323, 363, 506 read with 34 of Indian Penal Code and Section 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The State has produced papers of investigation. Both sides are heard.

2] The crime is registered on the basis of report of one Mahendra Lokhande, a labourer. He has made allegations that on 22th April, 2012, applicant Sanjay s/o. Shivaji Singare took him on a motorcycle firstly, to applicants' house and then to a farm house. The allegations are made that the applicant questioned the complainant as to why he had returned before completing the work of cutting sugarcane. Applicant was asking the complainant to give account of work and amount paid. Allegations are made that abuses were given in the name of complainant's caste, Scheduled Caste. Allegations are made that the complainant was assaulted at farm house by applicants and their servant Subhash. The police papers show that there was contusion over left thigh on the back side of the

complainant and there is history of blunt trauma over abdomen. The complainant was examined on 22nd April, 2012.

3] Learned advocate for the applicants submitted that there are allegations that the incident took place either in the house or in the farm house and therefore, at this stage, it can be said that there are no ingredients of offence punishable under Section 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submitted that there is possibility of false implication of the applicants in the crime due to dispute mentioned in the police report itself and the offence under aforesaid Act is intentionally added.

4] If the contents of the First Information Report are considered, it can be said that there are allegations in respect of incident which took place inside the house or farm house. Simple injuries are caused to the complainant. There is dispute with regard to execution of some work given to the complainant. Thus, there is possibility that the real dispute is different and there is possibility that no material will be there to make out aforesaid offence under Atrocity

Act. In view of the circumstances, this Court holds that police should not need the custody of applicants for investigation.

5] In the result, application is allowed. In the event of arrest of the applicants in Crime No.30 of 2012 registered in Dharur Police Station, Dharur, Dist.Beed for offences punishable under Sections 323, 363, 506 read with 34 of Indian Penal Code and Section 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the applicants be released on bail on furnishing P.R. and S.B. of Rs.25,000/- by each of them, on conditions that the applicants shall not tamper the prosecution witnesses. They shall attend the concerned police station on every Sunday between 9:00 am and 11:00 am and they shall co-operate with the investigation. They shall not commit same offence.

6] The above observations are only for the purpose of present proceeding and they will not come in the way of trial Court while deciding the case.

[T.V.NALAWADE, J.]

kbp/