

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 532 of 2015

Vijay Kumar Kshatriya S/o Late Ratnakar Singh Aged About 38 years R/o
Aamapara, Balod, District- Balod, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through: The Station House Officer, Police Station-
Balod, District- Balod, Chhattisgarh

---- Non-applicant

For Applicant/s : Shri Ramakant Pandey, Advocate.
For Non-applicant / State : Ms. Shubha Shrivastava, Panel Lawyer

Order On Board

09/07/2015

The applicant is apprehending his arrest in connection with Crime No.242/2015 registered at police station – Balod, Distt. - Balod, CG for alleged commission of offence under Section 294, 506, 323/34 of IPC and Section 3 (1) (x) of the Scheduled Caste / Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

2. Prosecution case is that the applicant abused and assaulted the complainant with intention to insult and humiliate in a place within the public view. It is stated that the complainant belongs to Halba tribe.

3. Learned counsel for the applicant submits that even according to the complainant, the incident happened on a public road when the complainant hit cattle which was injured and then it is alleged that the complainant was assaulted and abused. The applicant had lodged report against the complainant for injuring the cattle and as a counter blast, the complainant lodged report against the applicant. It is submitted that on the face of the incident, it does not make out an offence under Section 3 (1) (x) of the Act of 1989 and all other offences alleged are bailable in nature.

4. On the other hand, learned State counsel submits that the applicant assaulted and used word "Adiwasi" to the complainant while beating him which prima facie makes out a case with intention to intimidate and humiliate in a place within the public view. It is submitted that in view of bar created under Section 18 of the Act of 1989, the bail application is not maintainable.

5. Prima facie, even from the report, the incident happened in a road, all of a sudden, when the complainant hit a cattle and the applicant, who was coming in another vehicle stopped the complainant at the spot and gave beating to the complainant. Therefore, in view of the orders passed by this Court in ***Satyaprakash Vs. State of C.G., 2004 (1) C.G.L.J. 162 & Abdul Abbas Vs. State of C.G., 2005 (2) C.G.L.J. 235***, bar under Section 18 of the Act of 1989 would not come in the way so as to deny anticipatory bail to the applicant, particularly when all other offences are bailable in nature. Therefore, looking to the aforesaid circumstances, I am inclined to grant anticipatory bail to the applicant.

6. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by Police Officer as and when required;
- (ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge