

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.699 of 2015

Smt. Sushma Sinha W/o Ghanshyam Sinha Aged About 29 years Caste Kalar,
Occupation Teacher/lecturer Panchyat (English) Govt. High School Village -
Jhara, Block & Distt. Mahasamund R/o Bhalesar Raod, Mahasamund, Police
Station - City Kotwali Mahasamund, Tahsil & District Mahasamund
Chhattisgarh Civil & Revenue District Mahasamund Chhattisgarh

---- **Petitioner**

Versus

State Of Chhattisgarh Through - Special Police Station Sc & St Mahasamund
Tahsil & District Mahasamund Chhattisgarh Civil & Revenue District
Mahasamund Chhattisgarh

---- **Respondent**

For Petitioner	: Shri Ratnesh Kumar Agrawal, Advocate
Respondent/State	: Ms. Shubha Shrivastava, Panel Lawyer

Order On Board

06/08/2015

The applicant has preferred this application under Section 438 of Cr.P.C., apprehending her arrest in connection with Crime No.90/2015 registered at Police Station–Special Police Station (Scheduled Caste and Schedule Tribes) Mahasamund, District Mahasamund (C.G.) for alleged commission of offence under Sections 294, 506 of IPC and Section 3(1)(x) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 (In short “the Act”).

2. Case of the prosecution is that when on bonafide grounds, the complainant required the applicant to apply with the formalities with regard to joining, the applicant enraged, abused and threatened the complainant. It is also alleged that the applicant with a view to intimidate and insult, also hurled abuse using caste language and thereby committed offence under Section 3(1)(x) of the Act.

3. Learned counsel for the applicant submits that the report is false implication. It is submitted that due to misbehaviour of the complainant, the applicant and other lady teachers had been continuously reporting the matter to the higher authorities including Collector since the month of December, 2014. Against the complainant's behaviour and refusal to allow joining, a complaint was given on 29-04-2015 to Chief Executive Officer, Zila Panchayat, who initiated disciplinary action by issuing show cause notice to the complainant on 29-04-2015. The applicant also approached the State Woman Commission lodging complaint against the complainant on 16-01-2015. During the pendency of this complaint, the applicant, as a counter blast, has now lodged a report on 07-05-2015 in respect of incident dated 07-04-2015. Therefore, in these circumstances, the applicant may be protected against her arrest.

4. On the other hand, learned State counsel opposed the prayer for grant of bail by submitting that the complaint was enquired into by the police and after recording the statement of the complainant and two other witnesses, who were present in the office of the complainant, the police registered offence on 18-06-2015. As the complaint makes out a prima facie case of commission of offence under Section 3(1)(x) of the Act, application for grant of anticipatory bail is barred under Section 18 of the Act.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the report was lodged against the applicant by the complainant after about 10 days of the incident, on 07-05-2015, after show case notice was issued to the complainant on 29-04-2015 by the Chief Executive Officer and further that since the month of December, 2014, the applicant has been making serious allegations of harassment and outraging modesty against the complainant, in the opinion of this Court, bar under Section 18 would not be attracted in view of orders in

the cases of ***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.***

6. Taking into consideration the totality of the circumstances and the background, in which, the incident is alleged to have happened, the application is allowed.

7. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail on furnishing a personal bond for a sum of Rs.20,000/ with one surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(I) she shall make herself available for interrogation by a police officer as and when required;

(ii) she 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, *and*

(iii) she shall cooperate with the investigation as and when she is called.

**Sd/-
Manindra Mohan Shrivastava
Judge**

