

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 755 of 2015**

1. Sanjay Kumar Singh Kaushik S/o Jainandan Singh Aged About 48 Years Occupation - Farmer
2. Suresh Singh Gautam S/o Late Dwarika Singh Gautam Aged About 42 Years Occupation Farmer

Both R/o Village Kapan, Police Chowki Naila, Police Station Janjgir District Janjgir Champa Chhattisgarh

---- Applicants

Versus

Police Station, AJK, P.S. Janjgir, State of C.G. Through : District Magistrate, Janjgir District Janjgir Champa Chhattisgarh

---- Respondent

For Applicants	:	Shri Indrasen Sahu, Advocate
For Respondent/State	:	Ms. Shubha Shrivastava, Panel Lawyer

Order On Board**19/08/2015**

Heard.

This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No.04/2015, registered in Police Station-AJK, Janjgir, for alleged commission of offence under Section 394, 506, 323, 427/34 IPC and Section 3 (1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (for short "*the Act of 1989*")

Case of the prosecution, in brief, is that a quarrel arose between the two groups, one of the applicants and other of the complainant with regard to place of celebration of festival and it is alleged that the applicants abused, intimidated and also destroyed the property belonging to complainant, who belongs to reserved category of *satnami* caste.

Learned counsel for the applicant submits that except offence under Section 3 (1) (x) of the Act of 1989, all other offences are bailable in nature. He submits that the genesis of dispute between the parties does not show that the abuse, threat or assault was with a view to intimidate or insult the complainant for the reason that he belong to *satnmai* reserved category. Therefore, applicant may be protected.

On the other hand, learned counsel for the State submits that when the complainant

peacefully resisted the applicants and other accused from proceeding with celebration of Holi festival, the applicants took recourse to violence and assaulted, resulting in injuries. As the complainant belongs to reserved category of *satnami*, prima facie case is made out, Therefore, prima facie, a case of commission of offence under Section 3 (1) (x) of the Act of 1989 is made out and in view of the bar created under Section 18 of the Act, present application for grant of bail is not maintainable.

Prima facie from the allegation contained in the FIR and the diary statement, the genesis of dispute appears to be a quarrel arising at the spot due to applicants proposing celebration which was obstructed and resisted by the complainant party. It does not prima facie shows that the abuse or other criminal overt act was committed because the complaint belongs to reserved category. It is also taken into consideration that on the complaint of the applicants an offence under Section 307 IPC has been registered in the same police station against the complainant- Sanat Kurre. Therefore, I am of the opinion that the applicants cannot be denied of protection of anticipatory bail in view of the judgments 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}**.

The application is accordingly allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the arresting officer on each of them 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 with following further conditions that:

- (i) the applicants shall make themselves available for interrogation by the police officer as and when required;
- (ii) the applicants 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;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)

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