

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.CR.C.(A). No. 1033 of 2015**

1. Smt. Lata Soni, W/o. Shri Bharat Soni, aged about 36 years, R/o. Dhawalpur, Tahsil and District Gariyaband (C.G.)

**----Applicant**

**Versus**

1. State Of Chhattisgarh, Through : Station House Officer, Police Station – Mainpur, District Gariyaband (C.G.)

**---- Respondent**

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| For Applicant        | : Mr. Abhisek Sharma, Advocate    |
| For Respondent/State | : Mr. S.R.J. Jaiswal, Panel Lawer |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**06/11/2015**

1. Apprehending arrest in connection with Crime No.81/2015 registered at Police Station- Mainpur, District Gariyaband, for offence punishable under Section 294, 323, 506-B of Indian Penal Code and Section 3 (1) (iv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, on 11.07.2015, while the complainant was cutting the grass in his house, at that time, the applicant and her husband came there and husband, Bharat Soni came inside and Lata Bai abused the complainant that she has objected the construction of the house and abused the complainant. Thereafter, during the altercation, she aggravated, subsequently this report has been made.
3. Learned counsel for the applicant would submit that initially this applicant, Lata Soni was attacked by Peela Bai and her son Govind as they were fencing in front of their house, which was objected and the said Govind stated that it is his land he can do whatever he

want, consequently, attacked the applicant and assaulted. He would further submit that it is not a case which would fall under Section 3 (1) (iv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Therefore, he prays that the applicant is entitled to be released on anticipatory bail.

4. Per contra, the learned State counsel opposes the bail.
5. Having regard to the documents initially the report was made by the applicant, which was registered as Crime No.80/2015 at 7.00 o'clock and the report made by the complainant under Crime No.81/2015 was made subsequently. Reading of the FIR under Crime No.80/2015, it is stated that the applicant was attacked by the complainant and her son and the case was also registered under Section 294, 323, 506B, 34 of I.P.C.. Further reading of the offence and the case law reported in **2005 Cri.L.J. 3051, Abdul Abbas Vs. State of C.G.**, and reading of Section 3 (1) (iv) of S.C. & S.T. (Prevention of Atrocities) Act, prima-facie the offence under Section 3 (1) (iv) is not made out.
6. Section 3 (1) (iv) of S.C. & S.T. (Prevention of Atrocities) Act reads as under :-

**“3. Punishments for offences of atrocities. – (1)**

Whoever, not being a member of Scheduled Caste or a Scheduled Tribe, –

- (iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred.”

7. Consequently, the nature of incident and the quarrel break out the dispute over the land and the ownership of it still in dispute, therefore, it do not lead to commission of offence under Section 3

(1) (iv) of S.C. & S.T. (Prevention of Atrocities) Act. Taking into totality and further taking into the fact that the applicant is a lady this Court is inclined to extend the benefit of anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.<sup>3</sup>

Certified copy today.

**Sd/-**  
**(Goutam Bhaduri)**  
Judge