

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 466 of 2015

Smt. Hemkunwar Naik & Anr. W/o Dolamani Naik Aged About 45 years R/o Village - Jhabad, P.S. & Tahsi-Baramkela, Distt. Raigarh, Civil & Revenue Distt. Raigarh Chhattisgarh

Prem Sagar Naik S/o S/o Dolamanj Naik Aged About 25 Years R/o Village- Jhabad, P.S. & Tahsil - Baramkela, Distt. Raigarh, Civil & Revenue Distt. Raigarh Chhattisgarh

---- Petitioner

Versus

State Of Chhattisgarh S/o Through Police Station, Ajk, Distt. Raigarh Chhattisgarh

---- Respondent

For Applicants	:	Shri Manoj Kumar Sinha, Advocate
For Respondent / State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/06/2015

The applicants are apprehending their arrest in connection with Crime No.42/14 registered at police station – AJK, Distt.-Raigarh (CG).

2. Case of the prosecution is that the applicants, with intention to intimidate and humiliate the complainant -Smt.Sukuwara Bai in public view, abused and thereby committed offence under Section 3 (1) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (In short “the Act of 1989”) and also under Section 294, 506, 336/34 of IPC.

3. Learned counsel for the applicants submits that the background and the genesis of dispute between the parties as stated by the complainant does not make out any case of commission of offence under the Act of 1989 as they had

nothing to do with the caste status of the complainant. Therefore, in these circumstances, bar under Section 18 would not be attracted. Therefore, the applicant may be granted bail.

4. On the other hand, learned State counsel submits that in view of bar under Section 18, the application is not maintainable. The report and the statement of the complainant prima facie make out that the caste words were used.

5. Prima facie, from the report and the statement of the complainant, it is found that the dispute arose with regard to cutting of crops which resulted in assault and threat. 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 applicants, particularly when all other offences are bailable in nature.

6. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicants shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that 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 them from disclosing such facts to the Court or to any Police Officer.
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge