

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 760 of 2015

1. Durgesh Pandey S/o Chandrashekhar Pandey Aged About 17 Years Occupation - Student, Through Guardian Father -- Chandrashekhar Pandey, S/o Late Kashi Prasad Pandey R/o Boirdadar, Raigarh, P.S. - Chakradharnagar, District - Raigarh (Chhattisgarh).
2. Smt. Sita Devi Pandey W/o Chandrashekhar Pandey Aged About 50 Years R/o Boirdadar, Raigarh, P.S. - Chakradharnagar, District - Raigarh (Chhattisgarh).

---- Applicants

Versus

State Of Chhattisgarh Through : Police Station, AJK, District - Raigarh (Chhattisgarh).

---- Respondent

For Applicants	-	Mr. Amit Kumar Sharma, Advocate
For Respondent/State	-	Ms. Sunita Jain, Panel Lawyer

Order On Board

20/08/2015

Heard.

1. The applicants are apprehending their arrest in connection with Crime No.33/2014 registered at Police Station-AJK, Raigarh (C.G.) for alleged commission of offence under Section 294, 506, 427/34 of IPC and 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short “ the Act of 1989”).
2. Prosecution case is that at the time when the complainant was plying JCB machine to dig out soil, the applicants and another accused arrived at the spot, resisted excavation work, abused, threatened and also used caste language.
3. Learned counsel for the applicants submits that the background and the genesis of dispute does not prima facie make out a case of commission of offence under Section 3(1) (x) of the Act of 1989. It is a case of misuse of the penal provision only in order to make out a case of commission of non-bailable offence at the instance of one Mahesh Shukla under whose direction, the complainant was digging soil in front of the house of the applicants, which was objected to by the applicants. All other offences are bailable in nature.

4. On the other hand, learned State counsel opposes prayer and submits that the applicants not only abused and resisted the complainant from operating JCB machine but they also used caste word which prima facie shows that it was done with intention to humiliate the complainant because he belongs to reserved category. Therefore, the application for anticipatory bail is barred under Section 18 of the Act of 1989.

5. Prima facie, from a plain reading of the complaint, the genesis of dispute appears to be digging of soil by the complainant by operating JCB machine. The applicants and another co-accused are stated to have arrived at the spot obstructing and resisting excavation work and they also asking name of the complainant and then, it is alleged that the complainant was abused. All other offences alleged against the applicants are bailable in nature. Therefore, in these circumstances, I am inclined to grant anticipatory bail to the applicants 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, the application is allowed.

6. 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.20,000/- 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 they shall make themselves available for interrogation by a Police Officer as and when required;
- ii. that they 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 they 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

J U D G E