

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 675 of 2015

Jagdish Prasad Singhanian S/o Late Shankar Lal Singhanian Aged About 43 Years R/o Gandhi Chowk, Nevra, Tah., Police Station And Post Tilda, Civil And Rev. Distt. Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Ajak, Raipur, District Raipur Chhattisgarh.

---- Respondent

Mr. Manoj Paranjpe, Advocate for the Applicant.
Ms. Shubha Shrivastava, Panel Lawyer for the State.
Ms. Savita Dhidi, Objector in person.

Order

17/08/2015

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.361/2014 registered at Police Station- Ajak, Raipur, District Raipur (C.G.) for alleged commission of offence under Section 294, 323, 506, 147, 427 and Section 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 the applicant and another accused committed mischief by destroying the *kachha* construction house of the complainant and all her belongings valuables were broken and destroyed by using a bulldozing machine. It is also alleged that the applicant intimidated and insulted the complainant, who belongs to reserved category of scheduled caste with an intention to humiliate her in place within public view and thereby committed offence under Section 3(1)(x) of the Act of 1989.

3. Learned counsel for the applicant submits that even according to the complainant, she has no authority to acquire the Government land. Notice was already issued to her by Revenue Authorities to remove obstruction from the Government land, which was being used

as public road. The allegations against the applicant is of playing role in destroying certain property and belongings to the complainant dragging her and abusing, which has led to registration of offence under Section 294, 323, 506, 147 & 427 IPC which are all bailable offences.

4. As far as allegation of commission of offence under Section 3(1)(x) of the Act of 1989 is concerned, it is argued that the only reason operative as borne out from the circumstances was that, attempt was made to remove the complainant from the Government land which was being used by public as path way and nothing more. Therefore, the element of intimidation or insult in order to humiliate for the reason that the complainant belongs to reserved category of satnami is prima facie not made out.

5. On the other hand, learned State counsel and Objector present in person opposed the prayer and submitted that the applicant and another accused arrived at the spot with bulldozing machine and temporary hut built up by the complainant was bulldozed and demolished and in that process, all her belongings valuables also destroyed. All this was done because the complainant belongs to reserved category, therefore, a prima facie case is made out and in such cases, anticipatory bail is barred under Section 18 of the Act of 1989.

6. The material on record, case diary and even the document placed along with the objection show that the complainant is encroacher and proceedings against her have already been initiated by the Revenue Authorities. The allegation against the applicant and another accused is that they all came together to remove the structure of the complainant stating that it is obstructing the public way. It is in that process, that abuses are stated to have been hurled. In order to constitute the offence under Section 3(1)(x) of the Act of 1989, there has to be some material to show that the criminal overt act was intended to humiliate for the specific reason that the victim belongs to reserved category and that the victim was insulted or intimidated with that intention of humiliation. Therefore, taking into consideration the background of the incident and also taking into consideration the alleged overt act of the applicant and particularly taking into consideration that except offence under Section 3(1)(x) of the Act of 1989, all other offences alleged are bailable in nature, I am inclined to extend the benefit of anticipatory bail to the applicant in view of the orders passed by this Court 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**, bar under Section 18 of the Act of 1989 would not come in the way so as to deny anticipatory bail to the applicant, the application is allowed.

7. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his 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 applicant shall abide by all the following terms and conditions -

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

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava

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