

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 211 of 2016

1. Ashok Kumar Shukla, S/o Shiv Kumar Shukla, Aged About 47 Years, Caste-Brahmins R/o Khisora Ward No. 13 Akaltara, Thasil & Police Station Akaltara, District -Janjgir - Champa Chhattisgarh
2. Savita Tiwari, W/o Ashok Kumar Shukla, Aged About 45 Years, Caste Brahmins, R/o Khisora Ward No. 13 Akaltara, Thasil & Police Station Akaltara, District Janjgir - Champa Chhattisgarh
3. Shailesh Shukla, S/o Ashok Kumar Shukla, Aged About 22 Years, Caste Brahmins, R/o Khisora Ward No. 13 Akaltara, Thasil & P.S. Akaltara District Janjgir - Champa Chhattisgarh

---- Applicants

Versus

State of Chhattisgarh Through – Police Station AJAK Janjgir, Distt. - Janjgir - Champa Chhattisgarh

---- Respondent

For Applicants	:-	Mr. Devendra Kumar Shukla, Advocate
For Respondent/ State	:-	Mr. Arvind Shukla, Panel Lawyer for the State.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

14/03/2016

1. Apprehending arrest in connection with the Crime No. 18/2015, registered at Police Station- AJAK, Janjgir, District Janjgir (C.G.) for the offence punishable under sections 294,506,323/34 of Indian Penal Code and section 3(1)(10) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act) 1988, the applicants have filed this application under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. Case of the prosecution, in brief, is that on 26.09.2015 the applicants assaulted the complainant Ajay Chouhan and his family members and abused in the name of mother and also in the name of caste. Thereby, the offence is committed.

3. Counsel for the applicants submits that the complainant and the family members were aggressor and over spitting the incident happened on 26.09.2015. Initially Smt. Savita Shukla was assaulted for which the report was made which was intervened by the husband Ashok Kumar Shukla and the son Shailesh Shukla. Neither, there was intention to humiliate the complainant nor any incident happened and the complaint was filed only to counter the complainant on the report which was made for assault by the applicants. He referred to the FIR and the statement which were made by the complainant against the applicants and their family members which is registered as crime no. 252/2015 and would submit that under the facts and circumstance, the applicants may be given the benefit of anticipatory bail.

4. Per contra State counsel opposes the prayer for grant of bail.

5. Perused the statement and the FIR and the contents of the case diary as also the certified copy of FIR which was lodged by the applicants on the report of applicant crime No. 252/2015 was registered against complainant and their family members. The FIR lodged by the complainant in this case bears No. 18/2015. This FIR was lodged in Janjir Thana and the FIR which is lodged by the applicants was at Akaltara. The incident had happened at Akaltara. Perusal of the FIR would shows that FIR made by the applicant in crime No. 252/2015 by the applicants against the family members of the complainant at 3.30 PM. Considering the back ground of this case, prima facie, it appears that over spitting the dispute erupted between the neighbours. The FIR lodged by the applicant the complainants are stated to be the aggressor whereas the

complaint made by the complainant states that they were beaten by the applicants. Taking the report and the counter report, prima facie, it appears that the incident occurred on trivial issue over spitting in between neighbours. So after going through the report it would show that the intention to humiliate may not exist therefore, bar section 18 may not be attracted. Taking the case diary and the counter report and report, this Court is of the opinion that the present is a fit case, where the applicants should be enlarged on anticipatory bail.

6. Accordingly, the anticipatory bail application is allowed and 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 officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:-

- (i) that the applicants shall make themselves available for interrogation before the investigating 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) 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.

Sd/-

(Goutam Bhaduri)
JUDGE