

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 592 of 2016

Arjun Kumar Prajapati S/o Shri Gangaram Prajapati, Aged About 19 Years, R/o Village Mudhipar, P.S. Pithora, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Pithora, District Mahasamund, Chhattisgarh.

---- Respondent

For applicant –Shri Ragvendra Pradhan, Advocate.
For Respondent/State – Shri Sumit Jhanwar, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

3/08/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 238/2015 registered at Police Station Pithora, District Mahasamund (C.G.) for offence punishable under Sections 354, 457, 354 (A) of the Indian Penal Code and Section 3 (1) (xi) of Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act.

2. As per the prosecution case, on 30/12/2015 the applicant went to the house of the prosecutrix/victim knocked the door and demanded some pills as he was suffering from stomach ache. Medicines were given, thereafter after some time the applicant again went to the house of the victim caught hold of the victim by her neck and gagged her mouth and pushed her to the floor and thereby tried to outrage her modesty.

3. Learned counsel for the applicant submits that in this case initially the applicant was enlarged on bail by the court below on 7/05/2016 under Section 354, 457, 354 (A) of IPC. Subsequently, at the time of filing case Section 3 (1) (xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been added, therefore this present bail application has

been filed. He further submits that in the statement under Section 164 of Cr.P.C. no allegation have been attributed against the applicant which attracts Section 3 (1) (xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, therefore no offence is made out and there is no evidence on record to show that it was within the knowledge that the complainant belong to SC and ST caste. Therefore, he submits that applicant may be granted benefit of anticipatory bail.

4. Learned State counsel opposes the prayer for grant of bail.

5. Perused the case diary and the documents as also statement under Section 164 of Cr.P.C. Perusal of statement under Section 164 of Cr.P.C. would show that no allegations have been attributed to the applicant. Further taking into fact that on earlier occasion applicant was enlarged on bail and after addition of Section 3 (1) (xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act present bail application has been filed. Therefore, prima facie it appears applicant has supported the investigation. Taking into such fact and the primary statement it appears that bar of Section 18 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not apply. Considering totality of the case, I am inclined to extend benefit of anticipatory bail to the applicant.

6. 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, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one local 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 himself 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) the applicant 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/-
(Goutam Bhaduri)
JUDGE