

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 102 /2016

Dr. Chandrabhan Singh Goutam, S/o. Hardev Singh Gautam, Aged About 47 Years, R/o. Kui, P.S. Kukdur, Tahsil Pandariya, Distt. Kabeerdham, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, P.S. Kukdur, Distt. Kabeerdham, Chhattisgarh.

---- Respondent

For Applicant : Mr. Jitendra Shrivastava, Advocate.

For Respondent : Mr. Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17/02/2016

1. Apprehending arrest in connection with Crime No.10/2015 registered at Police Station- Kukdur, District Kabeerdham (C.G.) for the offence punishable under Sections 294, 323, 506 & 448 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution story, in brief, the applicant on 03.02.2015 entered into the house of the complainant/victim while they were canvassing for the vote and offered liquor to vote for certain person and on having refused, she was abused in the name of her caste and was further assaulted.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case for the reason that earlier to this

the applicant has made a report against Tirath & Dinesh who are the brother-in-law of the complainant and in that case compromise has been affected and in the instant case also the victim has stated that she was not abused in the name of caste by way of an affidavit Annexure A-3. It is stated that therefore the offence under Section 3(1)(x) is not made out and the applicant may be enlarged on anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the FIR lodged by the victim Uttara Bai. In the FIR no allegation have been made that she was abused in the name of caste. Further perused the copy of affidavit which is filed along with this bail application wherein the complainant has stated that she was not abused in the name of caste. Taking into the contents of the FIR and the affidavit, prima facie, the allegation of Section 3(1)(x) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act are not made out. Consequently, the bar of Section 18 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act to consider the bail would not come into play. Therefore, taking into such facts, I find it to be a fit case to extend the benefit of Section 438 of Cr.P.C to the applicant.
6. Accordingly, the anticipatory bail 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 by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one 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) that 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