

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 865 /2016

Rajendra Prasad, S/o. Late Ugrasen Ram, Aged About 42 Years,
Occupation Business/ Agriculturist, R/o. Village Gudapara (Ganeshpara),
Police Station & Tehsil Ramanujnagar, Revenue & Civil District- Surajpur,
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Scheduled Caste &
Scheduled Tribe Welfare Police Station (AJAK), Revenue & Civil District
Surajpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Surafaraj Khan, Advocate.

For Respondent : Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27/10/2016

1. Apprehending arrest in connection with Crime No.128/2016 registered at Police Station- Ramanujnagar, District Surajpur (C.G.) for the offence punishable under Sections 456, 354, 294, 506, 323 & Section 3(1)(11) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 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 case, a report was made on 25.06.2016 by the victim that while she was sleeping in the Hotel after closing it with the plastic, at 11 O'clock, the applicant came after removing the plastic and thereafter to outrage her modesty pressed her breast and when she got up, the applicant abused her and assaulted also. Thereafter, after recording of the statement, the offence has been registered.

3. Learned counsel for the applicant would submit that the applicant and the complainant both runs the shop in the motor-stand. The applicant runs a betel shop and the complainant runs a hotel and over a parking of the Bus in front of the hotel, some dispute took place initially. Therefore, the applicant made a report on 26.06.2016 which is placed on record alongwith covering memo. The counsel therefore submits that for the dispute took place on 25.06.2016 in order to counter such report, the false allegations have been attributed and the report is made by the complainant against the applicant and exaggerated statement is made, which is improbable and based on false allegation, therefore, the applicant may be enlarged on anticipatory bail.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the case diary and the documents as also the report made by the applicant on 26.06.2016, which purports that some dispute took place in between the applicant and complainant on 25.06.2016. Perused the FIR as also the statement under Section 161 & 164 of Cr.P.C. The FIR do not contain any allegations that the complainant was abused in name of the caste. In 161 & 164 statement, the allegations have been attributed that she was abused in name of caste. Considering the background and the fact that such allegations have not stated in the FIR and it appears that improvement is made and further taking into the report made by the applicant, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant, as the bar under Section 18 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 would not apply.
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 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, today.

Sd/-
(Goutam Bhaduri)
Judge