

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 887 of 2016**

Madhu Singh, W/o Vijendra Singh, Aged About 36 Years, R/o
 Village Jhargawan, Devrimod, Batauli, Police Station And Post
 Batauli, District Surguja (Chhattisgarh)

---- Applicant**Versus**

State Of Chhattisgarh Through In - Charge Of Police Station Batauli
 Ambikapur, District Surguja (Chhattisgarh)

---- Respondent

For applicant – Shri Manoj Paranjpe, Advocate.

For Respondent/State – Shri Neeraj Sharma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****21/09/2016**

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending her arrest in connection with Crime No. 51/2016 registered at Police Station Batauli, Ambikapur, District Surguja (C.G.) for offence punishable under Section 294, 506 read with section 34 of Indian Penal Code and Section 3(1-10) Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989.

2. As per the prosecution case, the applicant is the wife of one Vijendra Singh who is running Dhaba over the disputed land. The said land was taken on lease from Victoria and others. Original land holder Dhaneshwari has filed proceeding under Section 170-B of the Land Revenue Code wherein respective land was directed to be returned to the original owner Dhaneshwari and Sudhir Oraon. The said order was subject of challenge before the Collector as the possession was also directed to be handed over. Thereafter, since the interim stay was not granted in the appeal, writ petition was filed wherein demolition was directed to be stayed. It is alleged that in the meanwhile when the original

land owner Dhaneshwari in whose favour the land was directed to be allotted went to obtain the land, at that time the applicant and others assaulted her and abused in the name of the caste. Thereby, offence is committed.

3. Learned counsel for the applicant submits that the applicant's husband Vijendra Singh is running a Dhaba over the subject land and which was directed to be returned to Dhaneshwari in a proceeding under Section 170-B of the Land Revenue Code and when verdict was challenged before the Collector and no stay was granted and further writ petition was filed bearing WPC No.1302/2016 (Annexure A-6) and demolition was stayed by an order dated 12/05/2016. In the meanwhile, after the demolition was stayed, the applicant also informed the police that there is likelihood that the applicant and others would be inculpated in the false case for which registered notice was sent on 16/05/2016 and false allegations have been made that on 22/06/2016 when the complainant went to sow the land, at that time she was abused. He therefore submits that in order to frustrate filing of the writ petition, false allegations have been made. Therefore, learned counsel submits that the applicant may be granted benefit of anticipatory bail.

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

5. Perused the different documents in the case diary. It appears that with respect to the same land proceeding were drawn under Section 170-B of Land Revenue Code which is further subject of litigation and demolition was stayed by the High Court on 12/05/2016 and thereafter a report was made by the applicant that there is likelihood that the applicant would be inculpated in the false case. Considering the facts and

circumstances of the case, prima facie it appears that as the parties were litigating for the some reason to claim possession over the land and when demolition was stayed, dispute aggravated and this report was made. Taking into totality and the background of the case *mens-rea* appears to be absent and consequently bar of Section 18 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not apply in this case, therefore 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, she shall be released on bail by the officer arresting her on executing a personal bond in 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 herself 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 her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
JUDGE

