

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 508 of 2017

Gurmit @ Raja Saluja S/o Sevak Saluja, Aged About 21 Years R/o Lavan Road, Infront Of Durga Carrier, Baloda Bazar, Police Station City Kotwali, Baloda Bazar, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Of Police Station City Kotwali, Baloda Bazar, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Anil Gulati, Advocate
For State	:	Shri Avinash Singh, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/12/2017

Heard.

1. This application under Section 438 of Cr.P.C. has been preferred by the applicant apprehending his arrest in connection with Crime No.164/2017, registered in Police Station- City Kotwali, Baloda Bazar, District- Baloda Bazar, Bhatapara, for alleged commission of offence under Sections 295, 155(A) (B) IPC and Section (3) (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "*the Act*").
2. Case of the prosecution, in brief, is that the applicant posted an insulting comment on the face book in respect of a Police Officer belonging to reserved category.
3. Learned counsel for the applicant would submit that the contents of the post

alleged to be made by the applicant do not make out essential ingredients of commission of offence under Section 3 (1) (x) of the Act as it does not intend to insult the person because he belongs to reserved category but only an opinion of incompetency. He would further submit that other ingredient of the said insult having been committed within the public view is also not satisfied because the face book cannot be said to be public place. Therefore, in these circumstances, bar under Section 18 of the Act will not come in the way of grant of anticipatory bail to the applicant.

4. On the other hand, learned counsel for the State would submit that in view of the provision contained under Section 18 of the Act, anticipatory bail application is not maintainable. He would further submit that the contents of the post were insulting aimed only on the reason that victim belongs to reserved category.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration that the comments is posted on face book and the contents of the same and further taking into consideration the judgment of this Court in the cases **Satyaprakash Vs. State of C.G. {2004 (1) C.G. L.J. 162}** & **Abdul Abbas Vs. State of C.G. {2005 (2) C.G.L.J. 235}**, I am of the opinion that the applicant cannot be denied of protection of anticipatory bail.
6. The application is accordingly allowed. 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 arresting officer on his furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicant shall make himself available for interrogation by the police officer as and when required.

(ii) 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 from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen