

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 762 of 2017**

1. Pankaj Deora S/o Pramod Deora, Aged About 31 Years
2. Pramod Deora S/o Late Mahavir Prasad Deora, Aged About 61 Years

Both are R/o Near Bajrang Talkies, Main Road, Korba, Police Station, Tahsil & District Korba Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through Police Station (S.C. / S. T.) Korba, District Korba Chhattisgarh.

---- Respondent

For Applicants	:	Shri Chandresh Shrivastava, Advocate
For Respondent-State	:	Shri Ramakant Pandey, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****07/12/2017**

1. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicants apprehending their arrest in connection with Crime No. 01/2016 registered at Police Station (S.C./S.T.) Korba, Dist.-Korba (CG) for the offence punishable under Sections 294, 506B of the I.P.C. and Section 3 (1) (10) of the S.C. S.T. (Prevention of Atrocities) Act, 1989.
2. As per the prosecution case, one Vinod Dinkar has filed a complaint on 13.03.2016 before the Police that while he was cleaning some premises, the applicants came there and assaulted & abused him in the name of the caste. Thereby the offence has been committed. On

such application the police investigated the matter and no case was found, consequently, the complaint was filed before the JMFC under Section 156 (3) of the Cr.P.C., wherein on a direction given by the JMFC, the FIR was registered.

3. Learned counsel for the applicants submits that the main dispute is actually in between landlord and tenant namely Ashok Modi, who is the landlord and the present applicants are the tenants. The complainant is the employee of Ashok Modi. He would further submit that on the earlier occasion also one of the employee had also filed the similar complaint wherein the applicants were acquitted on 21.01.2016 in Sessions Trial No.21/13 under S.C./S.T. Act, thereafter this second complaint was made on 13.03.2016 and on an enquiry it was found that the complainant was not at all present on the spot for which the allegations were made. He would further submit that another complaint was of one of the worker Om Prakash against the applicants under Section 200 of the Cr.P.C., wherein similar allegations have been made against the applicants. He would further submit that the circumstances would show that the false allegations have been made, and challenge to the F.I.R. has also been made, wherein the interim protection has been given by the co-ordinate Bench of this Court in CRMP No.944/17. Consequently, on the basis of the observation made in the CRMP, the present anticipatory bail application has been filed and the applicants have been falsely implicated in this case, therefore, they may be given benefit of anticipatory bail.
4. Per contra, learned State counsel opposes the prayer for grant of

anticipatory bail.

5. Perused the statements filed along with the bail application. One acquittal order dated 21.01.2016 has also been filed, wherein the complaint was made by Nagendra Singh on the similar line and it was stated that Nagendra Singh while cleaning the premises of Tirupati Bajaj Auto, he was abused in like nature. The case-diary also shows that the complaint is made by Vinod Dinkar on 13.03.2016 the present one. The rojnamchasanha of 13.03.2016, which has been placed on record, would show that the police after enquiry found that the complainant was not at all present on the spot, therefore, no cognizance was taken on such complaint. Thereafter, as appears, a complaint was filed under Section 200 of the Cr.P.C. by Vinod Dinkar before the JMFC on which the FIR is registered. Taking into consideration the nature of complaint made against the applicants by the different persons and especially the complaint dated 13.03.2016, which was made by Vinod Dinkar, the Rojnamchasanha and the police investigation shows that Vinod Dinkar, the complainant was not present on the spot. Considering the contents of Rojnamchasanha which prima facie shows that the occurrence of the facts itself is in doubt. Taking into the entirety of the documents, since the happening of the incident itself is in doubt and prima facie negated an primary investigation, the bar of Section 18 of the Scheduled Tribes & Scheduled Castes (Prevention of Atrocities) Act, 1989 would not come into play. Accordingly, I am inclined to allow this anticipatory bail application.
6. Accordingly, the anticipatory bail application is allowed and it is

directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on each of them executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

- (i) that the applicants shall make themselves available for interrogation before the investigation officer as and when required;
- (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-

Goutam Bhaduri
Judge

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