

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 413 of 2017**

Shatakshi Saxena, D/o. R.N. Saxena, aged about 51 years, R/o. B-2, D.A.V. Staff Quarters, Vasant Vihar, Seepat Road, Police Station-Sarkanda, Civil and Revenue District - Bilaspur, Chhattisgarh.

----Applicant**Versus**

State of Chhattisgarh, Through - Station House Officer, Police Station-Sarkanda, Bilaspur, District -Bilaspur (Wrongly Mentioned as Mungeli in the order sheet) Chhattisgarh.

---- Respondent

For Applicant	: Mr. Dharmesh Shrivastava, Advocate
For Respondent/State	: Mr. Vinod Tekam, Panel Lawyer
For Objector	: Mr. Raj Kumar Gupta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/03/2018**

1. Apprehending arrest in connection with Crime No.131/2017, registered at Police Station – Sarkanda, District – Bilaspur for offence punishable under Section 294, 506 of the Indian Penal Code and Section 3 (1) (10) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that in-fact, the complainant Minishwar Prasad Jangade is the father of Minal Jangade as he had some grievance, he had come to the chamber of Principal of DAV School and this applicant was called. In the

presence of the Principal, the complainant himself misbehaved with this applicant. Being aggrieved by that, this applicant presented a complaint to the Principal, DAV School on the same day on 19.12.2016. A similar complaint was also presented before the Women Grievance Forum (Cell), DAV Public School, Bilaspur. Applicant further made a complaint to the Police Station – Sarkanda about the incident that took place on the date of incident . Later on she also filed a complaint on 21.12.2016 before the Women and Child Welfare Department, Bilaspur. An enquiry was made by City Superintendent of Police and on that basis FIR was lodged on 21.02.2017. It is submitted that as a counter blast, the complainant has lodged FIR on 22.02.2017, making false allegation against this applicant and no case is made out against the applicant, therefore, it is prayed that, the applicant may be benefited with grant of anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of anticipatory bail and the submission made in this respect. It is submitted that according to the FIR lodged by the complainant, clear allegation have been made against the applicant about abusing the complainant in the name of his caste and social status. The son of the complainant had also filed a complaint on 16.02.2017 before the Principal, DAV Public School, Bilaspur making similar allegation against this applicant, which further confirms about the incident that has taken place, hence, no case is made out for grant of anticipatory bail.
4. Counsel for the objector after adopting the arguments advanced by the State submits that the complainant side had been consistently putting forth their grievance, but they were not heard. On

21.12.2016, the daughter of complainant filed a complaint to the Principal, DAV School alleging misbehavior of the applicant. Similar complaint was filed by the complainant himself before the Principal, DAV School, Bilaspur, Chairman, L.M.C, DAV Public School. Written complaint was also presented in Police Station – Sarkanda on 21.12.2016 making allegation of misbehavior by this applicant. It is further submitted that a W.P.(Cr.) No.318/2017 was also filed before this Court, in which this Court had passed an order on 01.09.2017 in favour of the complainant directing the concerned police station to investigate the case and make arrest, if necessary. Hence, the applicant is not entitled for grant of anticipatory bail.

5. I have heard the learned counsel for the parties and perused the case diary and the documents.
6. The allegation against this applicant is this that on the date of incident, the complainant, the father of the student Minal Jangde was present in the office of the Principal, DAV Public School, Bilaspur, when this applicant abused him by his caste name as the complainant belongs to scheduled caste and threatened him with dire consequences. After lodging of FIR, offences have been registered against this applicant.
7. Considered the submissions made and the contents of the case diary. On perusing the documents that have been filed along with the bail application and also the documents that have been filed along with the objection, it appears that allegations about the abuse by caste has appeared for the first time in the complaint filed on 20.02.2017 against this applicant, whereas, the date of incident was 19.12.2016. All the similar complaint made by the objector to the school authorities and to the police do not mention about the

use of abusive words by this applicant in the caste name of the complainant, hence, for this reason I am of this opinion that this is a case in which the bar under Section 18 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act is not applicable. Consequent to that and looking to the allegation and also looking to the gradual development of the case against this applicant and the complaint that has been filed by the applicant against the complainant himself, which is also in process, this Court is of the opinion that it is a fit case, where the applicant should be extend the benefit of Section 438 of Cr.P.C.

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
9. 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) that 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/-
(Rajendra Chandra Singh Samant)
Judge

Balram