

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.Cr.C (A). No. 161 of 2018**

- Mahesh Agrawal S/o Late Brijmohan Agrawal Aged About 42 Years  
R/o Near Punjab National Bank, Tilda, Kharora Road, Tahsil Tilda,  
District, Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through The Police Station Nevra (Tilda),  
District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.

**---- Respondent**

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For the applicant : Shri B. P. Sharma, with Shri  
Vivek Chopda, Advocate.

For the Respondent/State : Shri Anant Bajpai, PL.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order on Board**

**25.04.2018**

1. Apprehending arrest in connection with Crime No.205/2016  
registered at Police Station- Nevra, District –Raipur, (C.G.),  
for offence punishable under Section 294, 323, 506, 147, 342,  
186, 332, 353, 427 of the Indian Penal Code and Section 3  
(1) (घ) of Scheduled Caste and Scheduled Tribes (Prevention  
of Atrocities) Act, 1989, the applicant has preferred this  
application for grant of anticipatory bail.
2. It is submitted that applicant has been falsely implicated in  
this case. The present applicant is a President of Municipal  
Council, Tilda and the complainant (Bhim Shankar Deshlahra)  
was posted at Chief Municipal Officer, working under this

applicant. The actual incident is this, that the complainant had published advertisement inviting tenders, without approval of the Municipal Council and on being inquired about by the complainant some exchange of words and some scuffled has taken place, but no incident has taken place in which the complainant was abused by this applicant on the basis of his caste status. A false complaint has been made by the complainant to cover up the illegal its committed by him, while performing his duties, no case is made out against the present applicant, hence, it is prayed that he may be extended the benefit of anticipatory bail.

3. Learned counsel for the State opposes the bail application and submits that under Section 18 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, the application for anticipatory bail cannot be entertained in case of any offence committed under the provisions of this Act. Apart from that in the FIR, there is clear allegation against this applicant that he used abusive and insulting words regarding the caste status of the complainant, hence, no case is made out for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary.
5. The prosecution case is this, that on 19.07.2016 the complainant was present in his office when this applicant along-with 15 other persons arrived in the chamber of the complainant and asked him to give information about the tender. The complainant informed that he had published notice inviting tenders with permission of the collector. It is

alleged in the FIR that site for proposed construction has been illegally encroached by the present applicant, because of which, the applicant abused the complainant by using abusive and insulting words and at that time the caste name was also used to insult the complainant and, thereafter, he was assaulted by the present applicant.

6. Learned counsel for the applicant placed his reliance on the judgment of Hon'ble Supreme Court of India in **Dr. Subhash Kashinath Mahajan Versus State of Maharashtra and Anr, delivered in Criminal Appeal No. 416/2018 on 20.11.2017**, in which specific direction have been issued by the Hon'ble Supreme Court of India, that to prevent of abuse of process of law in the cases of Atrocities Act, the anticipatory bail may be entertained in these cases, where no prima facie case is made out and apart from that instruction is also given that immediate arrest of any applicant shall not be made without the approval of Superintendent of Police.
7. In this case it has to be seen whether, the applicant had intention to insult the complainant, for the reason that he was a member of Scheduled Caste or there had been some other reason. On going through the entire material present in the case diary, it appears that this applicant and another had grievance against the complainant, that he had published the notice for inviting tenders without approval of the Municipal Council. That was the reason of the dispute between the applicant and others with the complainant. This appears to be the basis basic reason at present it appears that investigation has to be done to find out the better prima facie case against the applicant. Hence, looking to the facts and circumstances of this case, I am of the view that this applicant should be benefited with grant of anticipatory bail.

8. 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 executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. 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.
- (V). It is further observed that the trial Court shall not be bound by any of observation and the findings given in this order while conducting the trial against this applicant.

**Sd /-**

**(Rajendra Chandra Singh Samant)**  
Judge