

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 337 of 2018**

1. Shakeel Ahmad S/o Shri Jalil Ahmad, Aged About 34 Years, R/o House No. 100, Surabhi Colony, Avarabhata, Dentewada, Tahsil Dentewada, District North Bastar Dentewada Chhattisgarh, District : Dentewada, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Geedam, District North Bastar Dentewada Chhattisgarh, District : Dentewada, Chhattisgarh

---- Non-applicant

For Applicant – Smt. Hamida Siddiqui, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****06-07-2018**

1. Apprehending arrest in connection with Crime No.14/2017, registered at Police Station – Geedam District Dentewada, Chhattisgarh for offence punishable under Section 294, 506 of the IPC and Section 3(1)(R)(H), 3(2)(V) (A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that this is second application for grant of anticipatory bail before this Court filed by the applicant. His first anticipatory bail application filed before this Court was dismissed as withdrawn, in which, specific direction was issued to the concerned trial Court to dispose off the application for regular bail of the applicant preferably on the same day the applicant surrenders before the said Court. It is further submitted that the applicant has been falsely implicated in this case. In fact, one of the witnesses in this case Chandrakant Kshatriya is the man behind this false complaint. The applicant is a contractor and the said Chandrakant Kshatriya who had been rival in the business has with the help of the complainant has lodged the totally false FIR against this applicant. The story of the complaint is

totally improbable. The allegations that are made by the complainant about use of abusive language by this applicant is baseless as the applicant had no knowledge about the caste or tribe of the complainant. Hence, it is prayed that he may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the direction was issued by this Court in the previous anticipatory bail application, in which, an order was passed by this Court, which has not been complied with and this application has been brought which should not be entertained. Further, opposing the anticipatory bail application it is submitted that all the submissions made by on behalf of the applicant are his defence which are required to be proved before the trial Court. At this stage, it cannot be made out whether the applicant had willingly not insulted the complainant on the basis of his social status or not. Further, the application of anticipatory bail is barred under the provisions of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Hence, it is prayed that the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. As per the prosecution case, complainant Munnaram Murami has lodged the FIR in P.S. Geedam alleging the applicant had employed labourer and no payment was given to them and when the demand was made for payment of wages, the applicant abused the complainant on the basis of his social status as a member of the tribe and threatened to kill him. Hence, this case.

6. Learned counsel for the applicant placed reliance on the judgment of this Court in the matter of (1) **Somesh Das Vs. State of C.G.**, reported in 2003 (2) C.G.L.J. 168, (2) **Umesh Prasad @ Nandev & Others Vs. State of C.G.**, reported in 2015(1) C.G.L.J. 245, (3) **Baldau Kaushik Vs. State of C.G.**, reported in 2007 (1) C.G.L.J. 183 and (4) **Smt. Pramila Bai & Others Vs.**

State of C.G., reported in 2007 (1) C.G.L.J. 414.

Reliance is also placed on the judgment of Hon'ble the Supreme Court in the matter of **Dr. Subhash Kashinath Mahajan Versus The State of Maharashtra and Anr.**, in Criminal Appeal No.416 of 2018 judgment dated 20-03-2018.

7. The principle laid down and followed in these cases is this that on the basis of allegations in the FIR, if it is prima facie not made out that the intention of commission of offences was not for the reason that the complainant belonged to a particular caste or tribe, in that case, the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act shall not be applicable. In this case, real grievance of the complainant appears to be that the complainant being labourer was not paid the wages, hence, the intention of the applicant to abuse the complainant by making use of his tribal status was there or not needs specific examination and further investigation. Although, the applicant has not complied with the earlier direction issued by this Court in the earlier anticipatory bail application, even then, after due consideration on all the circumstances of this case, I feel inclined to grant anticipatory bail to the applicant in this case.

8. Accordingly, this anticipatory bail application is 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 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 Investigating Officer. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge