

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 354 of 2018**

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

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Geedam District North Bastar Dantewada Chhattisgarh, District : Dantewada, 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.20/2017, registered at Police Station – Geedam District Dantewada, Chhattisgarh for offence punishable under Section 294, 354, 354-A & 506 of the IPC and Section 3(1) (12) 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 His first anticipatory bail application filed before this Court was dismissed as withdrawn, in which, specific direction was issued to the concerned trial Court to dispose off the application for regular bail of the applicant preferably on the same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 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. It is also argued on behalf of the applicant that the applicant himself has married a tribal woman, hence, story as alleged in the FIR is totally improbable. 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/victim Hemin Baghel, a member of Scheduled Tribes, has filed the complaint against the applicant that she has approached this applicant for engagement in job. It is alleged that by her that on the pretext of showing the kitchen of the hotel this applicant caught hold of her and outraged her modesty by touching her body parts and when the victim objected, she was abused by naming her social status and then she was driven out of the place. 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 relate to offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. After due consideration on the material present in the case diary, looking to the direct allegation made by the complainant/victim of this case about this applicant outraging her modesty, no case is made out for grant of anticipatory bail to the applicant, hence, I do not feel inclined to grant anticipatory bail to the applicant in this case.

8. Accordingly, this anticipatory bail application filed by the applicant is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge