

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1018 of 2017

- Rohit Kumar Jayswal S/o Shri Yupnarayana, Aged About 33 Years Caste Kalar, R/o Dipika Basti, P.S. Dipika, Tahsil Katghora, Civil & Revenue District Korba, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station A J A K Korba, Civil & Revenue District Korba, Chhattisgarh

--- Respondent

Dr. Sanjeet Sharma, counsel for applicant.
Shri Manish Nigam, Panel Lawyer for State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/01/2018

Heard.

2. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.31/2017, registered at Police Station–AJAK, Korba for alleged commission of offence under Sections 294, 323, of IPC and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (In short “the Act”).

3. Case of the prosecution is that the applicant abused and used filthy language including caste language with a view to intimidate and insult the complainant within public view and the complainant belonging to Scheduled Caste and thereby committed offence under Section 3(1)(x) of the Act in addition to commission of offence under Section 323 & 294 of IPC.

4. Learned counsel for the applicant submits that the police had falsely implicated the applicant and registered the case under Section 3(1)(x) of the Act only to harass the applicant because the applicant is a Corporator. He next submits that even according to the statement of prosecution witnesses recorded under Section 161 of Cr.P.C., the genesis of dispute was arose on account of

sprinkling of water to reduce the pollution on account of huge movement of coal bearing trucks by one ACB Company, of which, the complainant-Ajay is an employee. It is submitted that from the statement of prosecution witnesses itself, it is reflected that genesis of dispute was with regard to sprinkling of water and the dispute between the applicant and the complainant had nothing to do with the caste of the complainant. Therefore, in these circumstances, prayer for grant of anticipatory bail may not be denied to the applicant and Section 18 of the Act would not be applicable.

5. On the other hand, learned State counsel opposed the prayer for grant of bail by submitting that the complainant has clearly stated that when the dispute was going on between the parties with regard to sprinkling of water, the applicant used caste language with a view to insult the complainant in the public view. As the complaint makes out a prima facie case of commission of offence under Section 3(1)(x) of the Act, application for grant of anticipatory bail is barred under Section 18 of the Act.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the contents of the case diary, it is found that even according to the prosecution story, the genesis of dispute between the applicant, who is a Corporator in the area and the complainant Ajay, who is an employee of ACB Company, was on account of sprinkling of water to reduce the pollution on account of huge movement of coal bearing trucks by one ACB Company. The complainant also does not say that he was being abused with an intention to insult him because he belonged to reserved category. Therefore, upon prima facie consideration of the case, in the opinion of this Court, bar under Section 18 of the Act would not be attracted in view of orders passed by this Court in the cases of **Satyaprakash vs. State of C.G., 2004(1) C.G.L.J. 162 & Abdul Abbas vs. State of C.G., 2005 (2) C.G.L.J. 235.**

7. Taking into consideration the totality of the circumstances and the background, in which, the incident is alleged to have happened, the application is allowed.

8. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/ with one surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(I) he shall make himself available for interrogation by a police officer as and when required;

(ii) he 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 from disclosing such facts to the Court or to any police officer, *and*

(iii) he shall cooperate with the investigation as and when he is called.

SD/-
(Manindra Mohan Shrivastava)
Judge

Tumane