NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 483 of 2018

1. A. Anil S/o Ayappan, Aged About 47 Years, R/o Srinagarpur, Camp-Kirandul, P. S. Kirandul, Distt. South Bastar Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh
2. G. Anand Rao S/o G. K. Murti, Aged About 37 Years, R/o Type-ODS, 367, Kirandul, P.S. Kirandul, Distt. South Bastar Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh
3. Mahesh Paswan S/o Mishrilal Paswan, Aged About 37 Years, R/o Type-2/DS, 507, Barsa Colony, Kirandul, P.S. Kirandul, Distt. South Bastar Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh
4. Damodar Singh Nag S/o Late Man Singh Nag, Aged About 40 Years, R/o Type-2/DS, 176, Gandhi Nagar, Kirandul, P. S. Kirandul, Distt. South Bastar Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh
5. G. Sanmukh Rao S/o G. Kamraj, Aged About 34 Years, R/o Type-ODS, 393, Kirandul, P.S. Kirandul, Distt. South Bastar Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station Kirandul, Distt. South Bastar Dantewada Chhattisgarh, District : Dantewada, Chhattisgarh

---- Non-applicant

For Applicants – Mr. Shrawan Agrawal, Advocate.
For Non-applicant/State – Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

22-06-2018

1. Apprehending arrest in connection with Crime No.16/2018, registered at Police Station – Kirandul, District South Bastar - Dantewada, Chhattisgarh for offence punishable under Section 294, 506, 456, 457, 509/34 of the IPC and Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the applicants have preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case. No case is made out against them under Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 because some of the applicants themselves belong to Scheduled Caste and Scheduled Tribe category and no

allegation has been made by the complainant regarding insult on the basis of her social status. Even if the contents of the FIR is taken as it is, no any non-bailable offence is alleged to have been committed by these applicants. Hence, it is prayed that these applicants may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application.

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

5. As per the case against these applicants, the FIR has been lodged by complainant Nikita Choudhari stating that on the date of incident when she came out of her house hearing some commotion, she saw applicant No.1, applicant No.2 and applicant No.3 and on seeing her they started saying abusive words about her and forced to enter into her house, at that time she closed the door, but the accused remained outside and threatened her with dire consequences. On that basis, the FIR has been registered.

6. On perusal of contents of the FIR, diary statement and the statement under Section 164 of Cr.P.C. of the complainant, it appears that there is no evidence regarding offence of house trespass for which offence under Section 456, 457 of the IPC have been registered, otherwise, the other offences registered against these applicants under the provisions of the IPC are bailable. But, the offence under Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also registered against these applicants, which is non-bailable offence. Looking to the material in the case diary, it appears that in view of judgment of Hon'ble the Supreme Court in the matter of **Dr. Subhash Kashinath Mahajan Vs. The State of Maharashtra and Anr.**, 2018 0 Supreme(SC) 243, the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 does not appear to be applicable in this case. Hence, for this reason, the application filed by the applicants for grant of anticipatory bail deserves to be

allowed.

7. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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 applicants shall also abide by the following conditions :

(i) that they shall make themselves available for interrogation before the investigating officer as and when required;

(ii) that they 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil