

NAFRHIGH COURT OF CHHATTISGARH, BILASPURMCRCA No. 502 of 2018

Gopal Shankar Jaiswal S/o Late Shri Tarachand Jaiswal, Aged About 43 Years
Occupation Government Servant, R/o Mini Stadium, Panjari Plant Officer Colony
Quarter No. I-15, Police Station Chakradharnagar, Tehsil Raigarh, District Raigarh,
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Incharge, SC/ST Police Station Raigarh,
District Raigarh, Chhattisgarh

---- Non-applicant

For Applicant : Shri Pawan Kesharwani and Ms. Shriya Mishra, Advocates

For Non-applicant : Shri R.K. Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar GuptaOrder On Board10/10/2018

1. This is an application for grant of anticipatory bail under Section 438 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. The applicant is apprehending his arrest in connection with Crime No. 03/2018 registered at Police Station- SC/ST Police Station, Raigarh, District Raigarh (C.G.), for offence punishable under Sections 354 (D) (1), 506 of the Indian Penal Code Sections 3(2) (5A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. Case of the prosecution, in brief is that the prosecutrix is the member of Scheduled Tribe. Applicant is neither member of Scheduled Caste nor the Scheduled Tribe. Prosecutrix is the Assistant Grade-III in Land Record Branch, Collectorate Raigarh. Applicant is the Driver in Irrigation Department. Applicant was stalking with the prosecutrix, he had threatened and abused her and used criminal force to outrage her modesty.

4. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail. He further submits that there is a delay in FIR. There was a water dispute between the applicant and prosecutrix. Applicant had given cash to the prosecutrix to purchase plot and when he demanded cash, prosecutrix lodged false report against the applicant. He placed reliance in '*Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and another*', reported in *(2018) 6 SCC 454*.

5. On the other hand, learned counsel for the State opposes the bail application.

6. Delay in lodging FIR, alleged dispute, allegedly giving money to purchase the plot are the subject matter of the scrutiny of the evidence, which can be done by the trial Court at the time of disposal of the case.

7. *Prima facie* it could not be said that a case under Section 354, 506 of IPC, 3(2)(5A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act does not attract in the case in hand. Thus, applicant does not get any help at this stage from the aforesaid judicial precedent law laid-down by the Hon'ble Apex Court.

8. Looking to the facts and circumstances of the case, looking to the *prima facie* allegations against the applicant, looking to the impact of granting anticipatory bail to the applicant on society, this Court is not inclined to give benefit of Section 438 of the Cr.P.C. to the applicant.

9. Consequently, the present anticipatory bail application is rejected.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE