

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 638 of 2018

Vijay Narayan Tiwari S/o Shri Kanchhedi Lal Tiwari Aged About 56 Years Occupation- Government Employee (Chief Executive Officer- Janpad Panchayat, Batauli, District Surguja), R/o M D-1/10, Junwani Road, Chauhan Town, Bhilai, District Durg, Chhattisgarh. **--- Petitioner**

Versus

State of Chhattisgarh through Police Station AJAK, Ambikapur , District : Surguja (Ambikapur), Chhattisgarh **--- Respondent**

For the applicant : Mr. Sanjeev Verma, Advocate.
For the State : Mrs. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

02.07.2018

1. Apprehending arrest in connection with Crime No. 26/2016 registered at Police Station AJAK, Ambikapur, District Surguja (C.G) for the offences punishable u/s 294 of IPC and section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 the applicant has filed this application u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, a complaint was made by one Maheshwar Bhagat that the present applicant who was working as Chief Executive Officer of Janpad Panchayat has abused him in the name of caste on 15.01.2016, for which a report was made on 09.07.2016 thereby the offence has been committed under the aforementioned sections.

3. Learned counsel for the applicant submits that the applicant is C.E.O., of Janpad Panchayat and false allegations have been made for the reason that the applicant on a direction of his superior officers on 20.11.2015 has conducted preliminary enquiry against the complainant wherein it was found that during the life time of first wife, he has performed second marriage for which according to the Chhattisgarh Civil Services Conduct Rules, the departmental enquiry was conducted and in that enquiry it was found that the charge levelled against the complainant was correct. It is stated that subsequently as an arm twist the false allegations have been made against the applicant and pressure has been inserted to withdraw the complaint. Learned counsel therefore submits that the applicant who has performed his official duty cannot be blackmailed in such fashion therefore he may be enlarged on anticipatory bail.
4. Per contra, learned State Counsel opposes the prayer.
5. Perused the case diary and documents. It appears that on the report of the complainant, initially the enquiry was conducted by the Police and a report was sent to the Deputy Superintendent of Police on 08.07.2016. It appears that the contention of the complainant that he was abused in the name of case has not been supported by most of the persons who appeared in the meeting which was reported by the enquiry officer of the Police. A perusal of the case diary would further show that the complainant was found guilty in departmental enquiry

which was being conducted against the complainant about his second marriage. Therefore, the entire facts would suggest that in order to dilute allegations the present complaint has been made and In view of this, the bar of section 18 of the Special Act would not apply.

6. Taking into totality of the facts and circumstances of the case, I am inclined to admit the applicant to anticipatory bail.

7. Accordingly, the application is allowed and 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 officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that 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/her from disclosing such facts to the Court or any police officer;
- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**