

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1109 of 2017

- Nehru Lal Patel S/o Sukhdev, Aged About 62 Years R/o Village Mudha, P. S. And Tahsil Saraipali, District Mahasamund Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through S. H. O. Police Station Saraipali, District Mahasamund Chhattisgarh , Chhattisgarh

--- Respondent

Shri Awadh Tripathi , counsel for applicant.
Shri Manish Nigam, Panel Lawyer for State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2018

Heard.

2. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.369/2017, registered at Police Station–Saraipali, District Mahasamund for alleged commission of offence under Sections 294, 506 of IPC and Section 3 & 5 of Prevention of Tonhi Pratadna Act, 2005 (In short “the Act of 2005”).

3. Case of the prosecution is that the applicant made certain allegations against the complainant Uma Bai by calling her “Tonhi” (practicing witchcraft) and also abused her.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated by the complainant-Uma Bai, because the present applicant was making complaint against the working and functioning of Uma Bai and other office bearers of Gram Panchayat as also the present applicant made a specific complaint before the Collector on 08-11-2017 and even before the Police Station in the year 2015, which shows that a long dispute existed between the parties. The applicant had clearly stated that he is apprehending that he would be falsely implicated. Other submission of learned counsel for the

petitioner is that whatever alleged to have been stated by the applicant in the matter, as per the case of the prosecution, would not amount to commission of offence under Section 4 of the Act of 2005, therefore, the applicant may be protected.

5. On the other hand, learned State counsel opposed the prayer for grant of bail by submitting that in view of the report lodged by Uma Bai and the case diary statement recorded under Section 161 Cr.P.C. in the matter, the applicant hurled abusive language and threatened the complainant-Uma Bai and called her "Tonhi", prima facie case is made out against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the background of dispute between the parties and that the applicant had been making certain complaints against working and functioning of complainant-Uma Bai and what has been uttered by the applicant and the provision contained in Section 4 & 5 of the Act of 2005, I am inclined to grant anticipatory bail to the applicant.

7. 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.10,000/ 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 she is called.

SD/-
(Manindra Mohan Shrivastava)
Judge