

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1473 of 2018

- Nirmala Sahu W/o Shiv Kumar Sahu, Aged About 45 Years, R/o- Jhagarakhand, Tahsil Manendragarh, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer, Police Station Jhagarakhand, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Akhtar Hussain, Advocate.

For Non-applicant/State – Shri Vijay Bahadur Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-11-2018

1. Apprehending arrest in connection with Crime No.123/2018, registered at Police Station – Jhagarakhand, District Korea, Chhattisgarh for offence punishable under Section 294, 506, 323, 34 of the IPC and Section 3(1)(द)(घ) and Section 3(2) (v- क) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short 'the Atrocities Act'), the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The FIR dated 30-07-2018 does not disclose commission of any offence under the provisions of the Atrocities Act. Later on, a story has been developed by the complainant in her statement given on 06-09-2018 after sufficient delay, which clearly shows the concoction in this case. The applicant is suffering from cancer, regarding which she has filed documents of medical treatment along with the application. No case is made out against her under the provisions of the Atrocities Act. Hence, it is prayed that the applicant may be benefited with grant of anticipatory bail.
3. Learned counsel for the State/non-applicant opposes the application

submitting that the application under Section 438 of the Cr.P.C. cannot be entertained in such a case as it is barred under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Hence, the application may be rejected.

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

5. As the case is, on 29-07-2018 the applicant and other co-accused were assaulting, abusing and threatening the husband of complainant Pramilabai, regarding which the FIR was lodged. In the statement given later on the complainant has stated that she and her husband belong to Scheduled Castes and they were abused by caste name by the applicant and others at the time of incident.

6. Considered on all the material present in the case diary. As the abused by the caste name was not present in this case from the very beginning, hence, I am of this opinion that bar under Section 18 of the Atrocities Act shall not be applicable in such a case. Therefore, I feel inclined to allow this application.

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

- (i) that the applicant shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil