

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 35 of 2019

1. Jai Prakash Vishwakarma S/o Late Panchu Vishwakarma, Aged About 45 Years, Occupation Lohar Mistri, R/o Mo. Darripara, Police Station And Tahsil Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Smt. Sheela Vishwakarma W/o Late Arun Vishwakarma, Aged About 50 Years, Occupation House Wife, R/o Navapara, Police Station And Tahsil Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
3. Smt. Rajesh Vishwakarma W/o Santosh Vishwakarma, Aged About 40 Years, Occupation House Wife, R/o Mo. Jhanjhatpara, Namnakala, Police Station and Tahsil Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. Pradeep Vishwakarma S/o Late Ramnath Vishwakarma, Aged About 60 Years, Occupation Service, R/o Loco Colony, Mugalsarai, Police Station Mugalsarai Uttar Pradesh., Uttar Pradesh
5. Prince Vishwakarma S/o Shri Pradeep Vishwakarma, Aged About 20 Years, Occupation Private Service, R/o Loco Colony Mugalsarai, Police Station Mugalsarai Uttar Pradesh., Uttar Pradesh

---- Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station AJAK Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Non-applicant

For Applicants – Smt. Hamida Siddique, Advocate.

For Non-applicant/State – Shri Mahesh Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-02-2019

1. Apprehending arrest in connection with Crime No.23/2018, registered at Police Station – AJAK Ambikapur, District Surguja, Chhattisgarh for offence punishable under Section 294, 506, 323, 147 of the IPC and U/s 3 (1)(r) & 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act'), the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. Complainant Prabha Devi Kujur is relative of

these applicants as she is married to brother of applicant No.1. Nothing has occurred on the date of incident as it is alleged in the complaint made, on the contrary, the complainant and her husband who were already living separately from the family started making demand of their share in the property, subsequent to which a dispute arose. Thereafter, the false FIR has been lodged against these applicants making false allegations against them. Therefore, it is prayed that the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that on the date of incident the complainant had been present on the spot for the reason that her father-in-law expired, where she was insulted, abused, threatened, assaulted and injured. They also used abusive language against the complainant because she is a member of Scheduled Tribe. Therefore, no case is made out for grant of anticipatory bail.

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

5. Complainant Prabha Devi Kujur has lodged the FIR stating that when she was present in the function of final rites of her father-in-law, all of a sudden all the applicants objected to her presence there and by using abusive words for her caste and otherwise they threatened, used force on her and also assaulted her as they all intended that she should go away from that function. Hence, this case.

6. After considering on the entire material present in the case diary and considering this fact that the complainant is herself relative of the applicants and there is no history of any dispute of the applicants with the complainant in this respect that the complainant belongs to Scheduled Tribe, therefore, after due consideration, I am of this opinion that bar under Section 18 of the SC/ST Act shall not be applicable in this case. Hence, 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 these 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. These 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