

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 876 of 2019**

1. Pankaj Kumbhkar S/o Shri P. R. Kumbhkar Aged About 33 Years
2. Premchand Pandey S/o Late Shri Jwala Prasad Pandey Aged About 29 Years

Both R/o Sinchai Colony, Darri, Tehsil Katghora District Korba Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through SCST Prevention Of Atrocities Police
Station AJAK Thana) District Korba Chhattisgarh

---- Respondent

For applicants	Mr. Kishore Bhaduri, Adv.
For non-applicant/State	Mr. Vinod Tekam, Panel Lawyer.
For objector	Dr. N.K. Shukla, Sr. Adv. with Mr. Vikram Sharma, Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****19-2-2019**

1. Heard on I.A. No. 1/2019 for seeking intervention/ objection in the bail application.
2. Looking to the facts and circumstances of the case, the objector is permitted to assist the State counsel.
3. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court and their no bail application is pending before any other court.
4. The applicants have been arrested in connection with Crime No. 20/2019 registered in police station SC/ST Police Station, Distt. Korba (CG) for offence punishable under Section 294, 506, 365, 34 of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in brevity 'SCST Act').
5. Prosecution story in brief is that Sadhram Navrang is a member of scheduled caste. He is a resident of Katghora. On 19-11-2018 at about 8 pm, applicants and co-accused Babumani Pandey reached to his ward by a four wheeler, abused him in the name of his caste, threatened him, slapped him, forcibly made him to sit on the vehicle, closed his eyes by a cloth strip and roamed him in the vehicle for one hour. Thereafter they dropped him in police station and threatened that if he lodges report in police station they they will kill him and his

family members. On 26-1-2019, the applicants submitted an application to the SHO, PS Darri on the basis of which an FIR was lodged against the applicants and co-accused Babumani Pandey.

6. Counsel for the applicants argued that the FIR is delayed by 3 months. One Suresh Mishra had lodged report against Ismael Qureshi. Applicant No. 1 Pankaj Kumbhkar was witness in that incident. On saying by Ismael Qureshi, the complainant had lodged report against the applicants. He drew my attention on the true copy of FIR Annexure A-2 which is part of the bail petition. He further submitted that the applicant No. 1 Pankaj Kumbhkar is a member of scheduled caste. Thus, the provisions of the SCST Act do not attract against him. He further drew my attention on the true copy of the caste certificate Annexure A-3 which is part of the bail petition. He also submitted that the applicants are innocent and have been falsely implicated hence they be released on bail.
7. On the other hand, the State Counsel opposed the bail application. He further submits that the nephew of co-accused Babumani Pandey namely Mantu Tiwari had abused and threatened the complainant on 17-2-2019. He drew my attention on Annexure A-1 which is a part of I.A. No. 1/2019. However, he submits that no criminal antecedent has been reported against applicants in the police case diary.
8. Looking to the totality of the facts and circumstances of the case, and as the trial will take its own time, the application is allowed. It is ordered that if each of the applicants furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned, they be released on bail.
9. On perusal of the impugned order, it is noticed that learned Special Judge, SCST Act, Korba has not discussed the material available on record in the impugned order while refusing the bail application which he ought to have done.
10. CC as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge