

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 241 of 2019

1. Sukhit Ram Yadav S/o Milan Ram Yadav, Aged About 47 Years, Occupation Sarpanch, Gram Panchayhat Purai, Tahsil Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. Kum Lal Yadav S/o Manharan Lal, Aged About 16 Years (Minor), Through Natural Guardian Manharan Lal,
Both R/o Purai, Tahsil And District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Utai, Through District- Magistrate, Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

For Applicants – Shri Pravin Dhurandhar, Advocate.

For Non-applicant/State – Shri Lav Sharma, Panel Lawyer.

Shri Parag Kotecha, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-02-2019

1. Apprehending arrest in connection with Crime No.25/2019, registered at Police Station – Utai, District- Durg, Chhattisgarh for offence punishable under Section 341, 294, 506, 323, 34 of the IPC and Section 3(1) (10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short 'the Atrocities Act'), the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case. No case is made out against the applicants regarding commission of offence under the provisions of the Atrocities Act. The incident is of 15-01-2019 and the FIR was lodged on the same day, in which offence under the provisions of the Atrocities Act were not registered, it is development of later on when the complainant has improved his statement which was recorded under Section 164 of the Cr.P.C., because of

which offence under Section 3(1)(10) of the Atrocities Act has been added and also included a new story that the complainant was attacked with red chilly powder in his eyes. Rest of the offences registered in the FIR are bailable in nature. Therefore, because of apprehension of arrest 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 according to the statement given by the complainant under Section 164 of the Cr.P.C., no case is made out for grant of anticipatory bail and the application under Section 438 of the Cr.P.C. is not maintainable in accordance with Section 18 of the Atrocities Act.

4. Learned counsel for the objector adopts the argument advanced by the State counsel and submits that applicant No.1 is habitual offender and he has 3 earlier cases registered against him. Apart from that, he is an influential political person who is continuously influencing the investigation. Therefore, the application may be rejected.

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

6. According to the FIR lodged on the date of incident, i.e., 15-01-2019 complainant Chandraprakash was accosted by the applicants near the village pond and then he was abused, threatened and injured by them. In the statement recorded later on, this fact has been brought on record that at the same time of the incident the complainant was also insulted by his caste name. Hence, this case.

7. Considered on the entire material present in the case diary and also observed the development that has taken place in the investigation. After due consideration and keeping in view the ratio laid down by Hon'ble the Supreme Court in the matter of **Dr. Subhash Kashinath Mahajan Versus State of Maharashtra and Anr.**, (2018) 6 SCC 454, I feel inclined to allow this application.

8. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge