

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 457 of 2019**

Daniram Sahu S/o Late Bhaiyaram Sahu Aged About 75 Years R/o Village Jhajhpuri Kala, P. S. Lorami, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station Lorami, Mungeli. In Related To Harijan Kalayan Thana Mungeli, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh.

---- Respondent

For the Applicant : Shri R.K. Jain, Advocate.
For the Respondent/State : Shri Rahim Ubwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****10.04.2019**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 541 of 2018, registered at Police Station Lormi, District Mungeli, Chhattisgarh for the offence punishable under Sections 147, 323, 294, 153(A), 153(2), 435, 336 and 295 of the Indian Penal Code and Section 3(1) (dha)(ढ) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. This applicant was not present on the spot of the incident and he has not participated in the commission of offence as alleged. The name of this applicant does not appear in the FIR lodged in this case. Although, one – Daniram Sahu is shown to be present at the time of incident whose parentage is different from that of this applicant. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that unless the applicant is arrested the identification procedure cannot be carried out to show his participation. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

6. According to the FIR lodged, on the date of incident the members of Sahu Samaj led by Shatrughan Sahu, Bhanu Sahu and Bhagwan Sahu engaged in a quarrel with the members of Satnami Samaj with respect to fixing of Jait Stambh in the disputed area, after which the members of Satnami Samaj were abused, threatened and other offences were committed against them.

7. For the reasons that there is no specific statement with regard to participation of this applicant appears in the FIR and also the name of the father of this applicant is different compared to the name that has appeared in the FIR, I feel inclined to grant anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him 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 himself 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 them 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 him by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge