

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 558 of 2019**

Ramayan Das Mahant S/o Samaar Das Mahant Aged About 40 Years R/o Village Agarkhaar, P. S. Darri, Tehsil Katghora, District Korba Chhattisgarh, District : Korba, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Ajak, Tehsil Korba District Korba Chhattisgarh, District : Korba, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Anshul Tiwari, Advocate.
For the Respondent/State	:	Shri Rahim Ubwani, P.L.
For the Objector	:	Shri Shubham Tripathi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****24.04.2019**

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. 44 of 2019, registered at Police Station AJAK, District Korba, Chhattisgarh for the offence punishable under Sections 294, 506, 456 and 323 read with Section 34 of the Indian Penal Code and Section 3(2)(5A) 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. The wife of the applicant is a Parshad and the applicant had been to visit the complainant, who is a physician, to enquire as to why he has refused to give medical treatment to the villagers therefore, a dispute arose and the complainant taking benefit of his social status has lodged a totally false FIR against this applicant. Similarly placed co-accused persons have been granted regular bail by the Court below. Hence, it is prayed that the applicant is entitled for grant of anticipatory bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the offence under Section 3(2)(5A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is non-bailable and under Section 18 of the same Act the application under Section 438 of the Cr.P.C. cannot be entertained. Hence, for these reasons, he is not entitled for grant of anticipatory bail.

5. Learned counsel for the Objector submits that the applicant is the main accused in this case and he has specifically abused the complainant by calling his caste name therefore, he is not entitled for grant of anticipatory bail.

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

7. According to the FIR lodged, on the date of incident this applicant came to the house of the complainant with 3 to 4 other persons and then calling the complainant a tribal abused, threatened and assaulted him. Hence, this case.

8. Considered the entire material present in the case-diary. Simply calling a person by his caste name would include intention to insult because the complainant belongs to a particular caste shall be determined in the trial. For the present, rest of the offences registered against the applicant are of bailable in nature, therefore, I feel inclined to grant anticipatory bail to the applicant.

9. 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

Nimmi