

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 909 of 2019

- Avinash Mishra S/o Late Jitendra Mishra, Aged About 25 Years, R/o Danteshwari Temple Compound, Dantewada, P.S. City Kotwali, Dantewada, District South Bastar Dantewada Chhattisgarh., District : Dantewada, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station AJAK Dantewada, District South Bastar Dantewada Chhattisgarh., District : Dantewada, Chhattisgarh

---- Non-applicant

For Applicant – Ms. Madhunisha Singh, Advocate.

For Non-applicant/State – Mr. Rahim Ubwani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21-06-2019

1. Apprehending arrest in connection with Crime No.01/2019, registered at Police Station – AJAK Dantewada, District South Bastar Dantewada, Chhattisgarh for offence punishable under Section 294, 323, 452 of the IPC and Section 3(1)(D) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act'), the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant and the victim of this case both are acquainted with each other and used to have telephonic talks. In fact, the applicant wanted to marry the victim, but, she refused, that is why, the applicant had been to the house of the victim and because of hot talks that took place, this false FIR has been lodged against him. The offence registered under section 3(1)(D) of the SC/ST Act is not made out in this case. Therefore, 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 material present in the case diary, no case is

made out for grant of anticipatory bail. Further, the application cannot be entertained in view of bar under Section 18 of the SC/ST Act. Therefore, the application may be rejected.

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

5. According to the FIR lodged, the applicant and the victim both were acquainted with each other and used to have telephonic talks. Then, the applicant without willingness of the victim, used to talk absurd and obscene on telephone, because of which she discontinued the telephonic conversation. Thereafter, it is alleged that on the date of incident the applicant went to the house of the victim where he called her, a tribal girl and also assaulted her causing simple injuries to her.

6. In the investigation made so far there is no material present to make out offence under Section 3(1)(D) of the SC/ST Act. Therefore, after considering the nature of the incident that has taken place, 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 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 him/her 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil