

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1131 of 2019**

- Prakash Gupta @ Prakash Chandra Gupta S/o Suraj Dev Gupta Aged About 26 Years R/o Village Manpur, Post Kerta, Thana - Chalgali, District-Balrampur Ramanujganj Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Kusmi, District Balrampur Ramanujganj Chhattisgarh

---- Non Applicant

For the Applicant	:	Shri Akath Kumar Yadav, Advocate
For the State	:	Shri D.K. Tiwari, Dy. G. A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****13.09.2019**

1. This is the first anticipatory bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other anticipatory bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with Crime No.29/2019 registered at Police Station- Kusmi, District- Balrampur Ramanujganj (C.G.) for the offence punishable under Sections 294, 506, 323 read with 34 of Indian Penal Code and 3(1)(d)(r) of SC/ST Act.
3. Case of the prosecution, in brief is that complainant Anil Kumar toppo is a forester posted at Katima. On 16.03.2019 at about 7:15 p.m. in the premises of one forest range office, Kusmi, applicant abused him

on caste basis, beat him, coaccused Indra Kumar Penkra caught hold him and also beat him. Applicant threatened to kill him. Said complainant is a member of Scheduled Tribe. Applicant is neither member of Scheduled Caste nor Scheduled Tribe.

4. Learned counsel for the applicant submits that applicant has no criminal background, he is innocent and has been falsely implicated in the present case. He further submitted that chief conservator of forest had given show cause notice to complainant regarding abusing the applicant and some other person on caste basis. He further submitted that applicant had lodged an FIR against the complainant. Thus, applicant may be released on bail.
5. On the other hand, learned counsel for the State opposes the anticipatory application, however, submits that there is no criminal antecedent against the applicant in police case diary.
6. This is well settled legal position that at the time of the disposal of the bail applications Court can not look into the defence of accused. Prima facie it cannot be said that provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (in short SC/ST Act) are not attracted in the case in hand. Looking to the provision of Section 18 of SC/ST Act, Section 438 CrPC is not attracted in the case in hand.
7. Consequently, anticipatory bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

Parul