

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1141 of 2019**

Akhilesh Kumar Jagatramka S/o G.K. Jagatramka Aged About 46 Years R/o
New Sadak Raigarh., District : Raigarh, Chhattisgarh.

---- Applicant**Versus**

The State Of Chhattisgarh Through The Station House Officer, Police
Station Kotwali, Raigarh Chhattisgarh.

---- Respondent

For the Applicant : Shri Pawan Kesharwani, Advocate.
For the Respondent/State : Shri Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****01.08.2019**

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. 408 of 2019, registered at Police Station – Kotwali, District – Raigarh, Chhattisgarh for the offences punishable under Sections 294, 323 and 506 read with Section 34 of the Indian Penal Code and Section 3(1) (a, r & s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. It is submitted by counsel for the applicant that this applicant and the other accused persons have been falsely implicated in this case. A false FIR

has been lodged by the complainant who happens to be the employee of builder – Inderpal Singh Bhatia. There is a civil dispute between the applicant and builder - Inderpal Singh Bhatia regarding which, the applicant's side has made several complaints to the authorities as the builder is making an attempt to encroach upon the vacant land of the applicant. The date of incident is 16.3.2019 when builder – Inderpal Singh Bhatia attempted to encroach upon the land of the applicant and others. The co-accused persons filed complaints to the authorities on which no action was taken, then after passing of about more than two months the complainant at the behest of the builder, making use of his social status has lodged this false FIR. Similarly placed co-accused persons in this case have been granted anticipatory bail by this Court in M.Cr.C.(A) No. 1011 of 2019 vide order dated 4.7.2019. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that there is evidence to show that this applicant has participated in the incident in which the complainant was insulted on the basis of his social status, therefore, the application filed under Section 438 of the Cr.P.C. cannot be entertained in view of the bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Hence, the applicant is not entitled for grant of anticipatory bail.

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

6. Complainant – Dharmpal Kurrey has lodged FIR on 16.3.2019 that when he was present on the spot of construction, the applicant and the other co-accused persons arrived and objected regarding his entry in their property and then they abused, threatened and assaulted him and also called him by caste name with intention to insult him. Hence, this case.

7. Considered the material present in the case-diary and perused the documents filed alongwith the application and also considering the fact that similarly placed co-accused persons have been granted anticipatory bail by this Court and the case of this applicant is identical, therefore, 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. He 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 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