

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1637 of 2018

- Sita Pathak W/o Dayalu Pathak, Aged About 30 Years, Caste Brahmin, R/o Village Chohata Thana Amarpatan, Tahsil Satna, District - Satna Madhya Pradesh., District : Satna, Madhya Pradesh

---- Applicant

Versus

- State of Chhattisgarh, Through the Station House Officer Kelhari, Tahsil Manendragarh, District - Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Nilkanth Malaviya, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-01-2019

1. Apprehending arrest in connection with Crime No 47/2017, registered at Police Station – Kelhari, District Koriya, Chhattisgarh for offence punishable under Section 294, 506, 323, r.w. 34 of the IPC and U/s 3 (2) (V) (a), 3 (1) (r) (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 on behalf of the applicant that no case is made out against this applicant. In fact, it had been a quarrel between both the parties in which the complainant party has also assaulted and thrashed the applicant in the same incident, regarding which one FIR was lodged, which was registered as Crime No.48/17 against complainant and others for offences under Section 294, 506, 323, 34 of the IPC and Section 4, 5 of Tonhi Pratadna Adhiniyam. The applicant and other co-accused persons in reality defended themselves against the complainant. Similarly placed co-accused persons namely Smt. Urmila Shukla, Vijay Kumar and Jayprakash have been granted anticipatory bail by this Court. Hence, it prayed that this applicant may also be benefited

with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the offence registered under the SC/ST Act are non-bailable and the application under Section 438 of the Cr.P.C. cannot be entertained on the basis 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. Complainant Dev Singh has lodged the FIR alleging that on the date of incident this applicant along with co-accused persons abused, threatened, then assaulted and injured the complainant and his wife. Hence, this case.

6. From perusal of the case diary, it appears that abusing on the basis of social status of the complainant was not mentioned in the FIR, which is a development of later on, therefore, I am of this opinion that bar under Section 18 of the SC/ST Act shall not be applicable in such a case. Hence, 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, she shall be released on bail by the officer arresting her 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 herself 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 her by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil