

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.391 of 2020

1. Suleman Ali S/o Late Gafur Ali Aged About 50 Years Former Sarpanch Of Village Regda, Police Station Chakradharnagar, Raigarh, Tehsil And District Raigarh Chhattisgarh
 2. Sheikh Salamat Ali @ Vikky S/o Suleman Ali Aged About 30 Years R/o Village Regda , Police Station Chakradharnagar, Raigarh , Tehsil And District Raigarh Chhattisgarh
- Applicants**

Versus

State Of Chhattisgarh Through Police Station A.J.K. Raigarh , District Raigarh Chhattisgarh

---- Respondent

For Applicants	:	Mr. Manoj Paranjpe, Advocate.
For Respondent/State	:	Mr. Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/06/2020

Heard.

1. The applicants are apprehending their arrest in connection with Crime No.443/2019 registered at police station – AJK, Raigarh, District Raigarh CG for alleged commission of offence under Section 294, 506, 323, 147 of IPC and Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Prosecution allegation is that the applicants along with other co-accused entered the field of the complainant, abused, assaulted and also used filthy language and insulted their caste and thereby committed alleged offence.
3. Learned counsel for the applicants would submit that the allegations are false and fabricated. He would submit that in a long drawn civil battle between the parties, a decree in respect of the property in dispute was passed in favour of the applicant No.1 on 26.09.2019. In that civil suit, complainant Anil Minz was also a party. Later on, some of the defendants, not Anil Minz, filed civil appeal but no relief was granted. The allegations of assault against the present

applicants are not *prima facie* made out because the complainant and other witnesses have not clearly stated as to who actually assaulted the complainant. He would further submit that in any case, the police has not registered any offence against the present applicants on the allegation of commission of offence under Section 324 or 325 of IPC but all offences except Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989') are non-bailable. He would submit that on the face of it, a case of commission of offence under Section 3(2)(v) of the Act of 1989 is not made out, therefore, the bar under Section 18 of the Act of 1989 would not be attracted against grant of anticipatory bail.

4. On the other hand, learned State counsel submits that report of the complainant and medical report *prima facie* makes out a case of assault on the complainant by number of accused including present two accused also. They all have been named by the complainant as the person assaulting the complainant. He would submit that the medical report proves *prima facie* shows that there is fracture in the ulna bone of the complainant.

5. Taking into consideration the background of civil dispute and decree in favour of the applicants, even though, this Court is of the opinion that the *prima facie* case of commission of offence under Section 3(2)(v) of the SC & ST Act, 1989 is not made out, it is found that the incident, as per the injury report, the complainant has sustained fracture injury. That by itself, should be sufficient for this Court to reject the application for grant of anticipatory bail. The application is accordingly rejected.

6. At this stage, learned counsel for the applicant submits that looking to the document, the Court below may be directed to consider regular bail application on the same day.

7. Considering the submission of learned counsel for the applicant, It is directed that in case, the applicants surrender and apply for grant of regular bail, the same shall be considered and decided, if possible, on the same day or in any case, not later than three days.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E