

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1018 of 2020**

1. Neelmani Mahant S/o Shri A.D. Mahant Aged About 46 Years R/o Sundar Nagar, Amatoli, Ambikapur, Sitapur, Distt.- Surguja, (C.G.)
2. Smt. Jyoti Mahant W/o Shri Neelmani Mahant Aged About 40 Years R/o Sundar Nagar, Amatoli, Ambikapur, Sitapur, Distt.- Surguja, (C.G.)

---- Applicants**Versus**

1. The State Of Chhattisgarh Through The Station House Officer, Police Station- Ajak, Ambikapur, District- Surguja, (C.G.)
2. Parwati @ Parbatiya Bek W/o Shri Chandan Bek, R/o Village Beljora, P.S. Sitapur, Distt.- Surguja, (C.G.)

---- Respondents

For Applicants	:	Shri Neeraj Mehta, Advocate
For State	:	Shri Alok Bakshi, Addl. A.G.
For Objector	:	Shri Gulsher Khan, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****27/08/2020**

The applicants are apprehending their arrest in connection with Crime No.24/2019 registered at Police Station – AJAK, Ambikapur, District - Surguja (CG) for alleged commission of offences under Section 34, 420 of IPC, 3-1 (R-S) & 3 (2)(v)(a) of the Scheduled Caste Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

2. Prosecution case is that the applicant dishonestly induced the complainant to pay him Rs.81,300/- from time to time in the name of providing employment as Anganbadi worker in the year 2006. The prosecutrix managed funds by taking loan and by other means of putting her property under mortgage but no employment was provided to her as assured by the applicant. It is alleged that when the complainant went to the applicants for

alleged job, she was abused and threatened by them.

3. Learned counsel for the applicant submits that the applicants are respectable inhabitants and applicant No.1 is a Lawyer by profession. He had been appearing in number of cases for land holder tribals against one Prakash Agrawal. The complainant and her husband both are under employment of said Prakash Agrawal and at his instance, false report has been lodged against him by the complainant on 31/07/2019 in respect of the alleged cheating of the year 2006 i.e. 13 years before the date of lodging of FIR. It is further submitted that the complainant has not come out with any evidence of payment of money by her to the present applicants. It is next submitted that in the present case, the offences under various provisions of the Act of 1989 has been leveled without there being any material to show that the applicants either abused the complainant or threatened her only for the reason that she belongs to scheduled tribe much less any allegation of having so done in a place within the public view. Therefore, even if the entire case is taken on its face value, no *prima facie* case of commission of offence under any of the provisions contained under the Act of 1989 is made out and the provisions regarding aggravated punishment *per se* is not a provision of committing offence in the said Act. Therefore, bar under Section 18 of the Act of 1989 would not come against the applicants.

4. On the other hand, learned counsel for the State and Objector submit that the complainant has given detailed complaint in writing wherein, she has stated that in the year 2006, the applicants had assured her of providing her employment as Anganbadi worker and on such dishonest intention, the applicants kept huge amount of Rs.81,300/- from her and even after more than a decade, no such employment was provided and when the complainant insisted for employment, she was threatened and abused by caste words. Therefore, a case is made out and in view of bar under Section 18 of the Act of 1989, the bail application is not maintainable.

5. Having heard learned counsel for the parties, the material disclosed in the complaint *prima facie* reveal that the applicant taken an amount of Rs.81,300/- from her in the year 2006 in the name of providing employment as Anganbadi worker. The complaint

itself has been filed after about 13 years. The applicant is a practicing Lawyer and he has come out with a case of false implication stating that this has been done at the instance of one Pankaj Agrawal against whom applicant No.1 had been advocating various cases which involves cases of ab-original tribes and the complainant and her husband, both are under employment of Pankaj Agrawal.

6. Taking into consideration what has been stated in the complaint in writing, the allegations mainly appears to be that of cheating. Therefore, even if the entire complaint is read as it is, the main allegation appears to be that under Section 420 IPC. Moreover, in the complaint, it has not been stated that abuses were hurled in public view. Therefore, considering the totality of the circumstances, in view of the orders passed by this Court in the case of **Satyaprakash Vs. State of C.G., 2004 (1) C.G.L.J. 162** and **Abdul Abbas Vs. State of C.G., 2005 (2) C.G.L.J. 235**, bar under Section 18 of the Act of 1989 would not come in the way of grant of anticipatory bail. As a result, I am inclined to admit the applicants to the benefit of anticipatory bail, particularly taking into consideration that he is a practicing Lawyer and the complaint is in respect of the incident of 13 years before.

7. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one local surety for the like sum to the satisfaction of the arresting officer and they shall abide by all the following terms and conditions:-

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they 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 them from disclosing such facts to the Court or to any Police Officer.
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the Trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge

