

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 679 of 2020**

- Bhagwat Sahu S/o Baisakhu Sahu Aged About 31 Years R/o Village- Kumhi, Post- Piplakachar, Thana/ Tahsil- Khairagarh, District- Rajnandgaon, Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh Through- Station House Officer, Police Station Khairagarh, District- Rajnandgaon, Chhattisgarh

---- Respondent

For Appellant	:	Mr. T.K. Jha, Advocate
For Respondent-State	:	Mr. Ayaz Naved, G.A.

Hon'ble Shri Justice Prashant Kumar Mishra
Judgment On Board**25/11/2020**

1. The appellant has preferred this application for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.252/2020, registered at Police Station Khairagarh, Dist-Rajnandgaon, C.G. for offences punishable under Sections 294, 323, 506 of the I.P.C. and Section 3(1) (घ), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. On reading of Dehati Nalasi and FIR it appears complainant

and the appellant had a subsisting dispute concerning right of way to the agricultural land. In the said background, when the complainant was returning to his house at about 8 pm on 18.07.2020, the appellant who was sitting in front of his house abused the complainant and assaulted him by club. For the injury sustained by the complainant, the concerned Police has registered offence under Section 323 of the IPC and for other allegations offence under Sections 394 and 506 of the I.P.C. were registered. However, subsequently when it was found that the complainant belongs to Scheduled Tribe community offences under Sections 3 (1)(g) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act, 1989') has been added.

3. Shri T.K. Jha, learned counsel appearing for the appellant would submit that in an extremely recent case the Hon'ble Supreme Court in the matter of **Hitesh Verma Vs. State of Uttarakhand & Anr.** in CRA No.707/2020 decided on 05.11.2020 has held in similar circumstances that offence under the Act, 1989 would not be made out.
4. Learned State counsel would oppose the prayer for grant of anticipatory bail by referring to Section 18 of the Act, 1989.
5. The nature of allegations informed to the Police would manifest that initially the allegation constituted the offence of using obscene words, criminal intimidation and causing

simple hurt and offence under the Act, 1989 were added later on upon finding that the complainant belongs to Scheduled Tribe community.

6. There is no whisper either in the Dehati Nalasi or in the FIR that the complainant was abused in the name of caste or that the appellant abused, caused hurt and humiliated the complainant only on the ground and with an intention to humiliate him in the name of his caste.
7. In the matter of **Hitesh Verma** (Supra), the Hon'ble Supreme Court has held that offence under the Act, 1989 is not established merely on the fact that informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the said matter also the complainant belonging to the Scheduled Caste community had a land dispute, as in the present case, with the accused.
8. In view of the aforesaid, it is debatable as to whether the offence under the Act, 1989 would *prima-facie* be made out or not. Although that is to be seen by the trial Court at the time of framing charges, however, considering the observation made by the Hon'ble Supreme Court in the matter of **Hitesh Verma** (Supra), I find the present to be a fit case for grant of anticipatory bail.

9. Accordingly, the impugned order refusing anticipatory bail to the appellant is set-aside and the appellant is directed to be released on anticipatory bail on the following conditions :-

- (i) he shall make himself available for interrogation by a police officer as and when required;
- (ii) he 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) the appellant shall not influence the witnesses during pendency of the trial.

SD/-
(Prashant Kumar Mishra)
Judge

Ayushi