

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 712 of 2020

- Smt. Aparna Biswas W/o Shrikant Das Aged About 28 Years R/o Plot No. 1711, Ward No. 07, Sai Vihar Colony, Yadunandan Nagar, Bilaspur Tahsil And District Bilaspur, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through P. S. A.J. K. District Bilaspur, Chhattisgarh.

---- Respondent

AND

CRA No. 728 of 2020

- Nitin Nigam S/o Late Kailash Prasad Nigam Aged About 40 Years O/o Presently Working At Cent Bank Home Finance Ltd. Mittal Complex Vyapar Vihar, Bilaspur, District Bilaspur Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through In-Charge Police Station Anusuchit Janjati Kalyan Thana, Bilaspur District Bilaspur Chhattisgarh.
- Bighneswar Naik S/o Shri Pareshwar Naik R/o Ward No. 38, Jagannath Chowk, Hemu Nagar, Bilaspur Chhattisgarh.

---- Respondents

For Appellant (CRA No. 712/2020)	: Shri Raj Kumar Gupta, Advocate.
For AppelaInt (CRA No. 720/2020)	: Shri Anand Shukla, Advocate.
For Objector/Complainant	: Shri Ranbir Singh Marhas, Advocate.
For Respondent/State	: Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

06/11/2020

1. Heard through video conferencing.
2. Both the appeals arise out of same crime number, therefore, they are being decided by this common order.
3. This appeals have been preferred under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') against impugned order dated 5.3.2020 (CRA No. 728/2020) & 7.3.2020 (CRA No. 712/2020) passed by learned Special Judge (Atrocities), Bilaspur, District Bilaspur, (C.G.) whereby the Trial Court has rejected the bail application of the appellants preferred under Section 438 of Cr.P.C. which relates to crime number 1/2020, registered at Police Station AJAK Bilaspur, District - Bilaspur, (C.G.) for the offence punishable under Sections 420, 120-B/34 of the IPC and Section 3(1)(r) & 3 (1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. According to the case of the prosecution, on 24.12.2019 a written complaint has been made by the complainant Vighneshwar Naik wherein it has been alleged that co-accused Rajesh Seth who is a builder of Vinayka Heights and complainant entered into an agreement that the builder Rajesh Seth would buildup one flat for complainant in sum of Rs. 25,00,000/- and for that he has paid Rs. 4,95,000/- and rest of the amount would be paid in 12 installments. On the suggestion of the builder Rajesh Seth the

Complainant borrowed the money as a loan from a bank. It is alleged that builder Rajesh Seth has not handed over the flat to the complainant. On 12.3.2018 complainant moved a letter to the manager for not payment of further cheque to the builder. Despite of that Manager of the Bank clear the cheques of Rs. 4,00,000/- and gave the same to the builder Rajesh Seth. The present appellants are the employee of the said bank. Allegations against appellants are that on 3.12.2019 when complainant visited the bank, at that time appellants told complainant that he is a defaulter and he has cheated. On the basis of the above background, offence has been registered. Applications under Section 438 of Cr.P.C. was preferred by the appellants before the learned Special Judge (Atrocities), Bilaspur District Bilaspur, (C.G.) and the said has been rejected by the learned Special Judge vide order dated 5.3.2020 (CRA No. 728/2020) & 7.3.2020 (CRA No. 712/2020). Hence, this appeal.

5. Learned Counsel appearing on behalf of the appellants submit that the appellants are innocent and have been falsely implicated in the present case. They further submit that from the contents of the F.I.R. and from the other materials available on record, *prima facie*, no offence under Sections 3(1)(r) & 3(1)(s) of SC/ST (Prevention of Atrocities) Act is made out against them. With regard to other alleged offence i.e. 420 of I.P.C. also, no case is made out against present appellants. The allegations of cheating

are against the co-accused Rajesh Seth and other bank officials who cleared the cheque and gave the money to Rajesh Seth. Ignoring the above grounds, Special Judge has rejected the bail applications of the appellants. Therefore, it is prayed that appellants may be granted benefit of bail.

6. Per contra, learned Counsel appearing on behalf of the State and Objector oppose the appeals.
7. I have heard learned Counsel for the parties and perused the material available.
8. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by learned counsel appearing for the parties, on perusal of the materials available with the records, documents annexed with the bail applications and after going through the contents of the F.I.R., it appears that allegations regarding cheating is against the co-accused Rajesh Seth and other officials of the bank and with regard to other allegations relating to offence under Sections 3(1)(r) & 3(1)(s) of SC/ST (Prevention of Atrocities) Act, I do not find any material and *prima facie*, no offence is made out against appellants relating to Atrocities. Therefore, without further commenting on other merits of the case, I am inclined to release the appellants on bail.
9. Accordingly, the appeals are allowed. The impugned orders are set-aside.

10. It is directed that the appellants shall be released on bail on each of them executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the concerned Trial Court for their appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge