

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

CRA No. 41 of 2021

- Krishna Yadav, S/o Mani Ram Yadav, Aged About 35 Years, R/o Jorandajhariya, Post Bhelwan, Tahsil Farsabahar, District Jashpur, Chhattisgarh. **---- Appellant**

Versus

- State of Chhattisgarh, Through P.S. Tumla, District Jashpur, Chhattisgarh. **---- Respondent**

CRA No. 49 of 2021

- Nandlal Yadav, S/o Dileshwar Ram Yadav @ Dile Yadav, Aged About 28 Years, Caste- Mahkul, Resident of Hathibed, Police Station- Tumla, District- Jashpur, Chhattisgarh. **---- Appellant**

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station- Tumla, District- Jashpur, Chhattisgarh.

---- Respondent

CRA No. 116 of 2021

- Narsingh Yadav, S/o Dileshwar Ram Yadav @ Dile Yadav, Aged About 25 Years, Caste- Mahkul R/o Hathibed, Police Station- Tumla, District- Jashpur, Chhattisgarh. **---- Appellant**

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station- Tumla, District- Jashpur, Chhattisgarh.

---- Respondent

For Appellants	: Shri Awadh Tripathi, Shri Shubham Tripathi, Shri Shashank Thakur, Shri Manoj Chouhan, Advocates
For Respondent/State	: Shri Adil Minhaj, Government Advocate
For Objector	: Shri Kaushal Yadav, Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Judgment on Board

09.07.2021

1. As all these appeals of the accused under Section 14 A (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, arise out of this crime number 55/2020, registered at police station- Tumla, District- Jashpur (C.G.) for the offence punishable under Sections 186, 294, 506, 323, 341, 353, 307, 148, 427 of IPC and Section 3 (2) (v), 3(2) (va) of SC/ST Act, they are being disposed of by this common judgment. Apprehending their arrest in connection with aforesaid offence the appellants herein namely Krishna Yadav, Nandlal Yadav and Narshingh Yadav preferred applications under Sections 438 of CrPC before the Special Judge, SC/ST (Prevention of Atrocities) Act, 1989, which were rejected vide orders dated 26.12.2020, 30.12.2020 and 01.01.2021 respectively.
2. Case of the prosecution, in brief, is that on 11.12.2020, Nayab Tahsildar- Sunil Kumar Gupta alongwith his driver Ranjish Tirkey and peon- Shravan Kumar Nayak after settlement of case at Link Court Jhariya at about 5.30 departed for his headoffice. On the way near Kulhar Buda Pool, on suspicion the Tehsildar tried to stop a tractor carrying minor children, but its driver i.e. appellant Narsingh Yadav did not stop the tractor and started driving away. Thereafter, there was hot talk between appellant Narsingh Yadav and victim Shrawan Kumar Naik and during this process, Shrawan Kumar Naik slapped Narsingh Yadav and then Narsingh Yadav started assaulting him by abusing him filthily and also threatened both of them of life. Thereafter, the present appellants alongwith other co-accused persons assaulted the complainant party with hands, clubs, commented filthy remarks against complainant Shravan Kumar on his caste, threw stones/hit the government vehicle by club, gave threat to life, thereby caused hindrance in the discharge of official duties by

the complainants/victims.

3. Learned counsel for the appellant submits that the allegations against the appellants are false and fabricated. Counsel for the appellants further submits that the complainant party are the aggressor, charge-sheet has already been filed, the complainant party sustained simple injuries and were not required to be hospitalized, the basic ingredients for making out a case under Sections 3 (2) (v), 3 (2) (va) of SC/ST Act and Section 307 of IPC are missing in this case. The appellants have no criminal antecedents, there is no likelihood of the appellants tampering with the prosecution evidence or absconding and conclusion of the trial is likely to take some time, therefore, at this stage, they may be granted bail.
4. Reliance has been placed on the judgment of the Hon'ble Supreme Court in the matter of **Hitesh Verma Versus State of Uttarakhand**, passed in **Criminal Appeal No. 707 of 2020**, on **5th November, 2020**.
5. On the other hand, learned State Counsel vehemently opposes prayer for grant of bail and submits that appellant party assaulted the complainant party and the complainant party sustained serious injuries, damage caused to the Government Vehicle by the appellants and also the appellant party used caste based remarks against the complainant Shravan Kumar who is member of SC/ST community.
6. Learned counsel for the objector submits that he has no objection to release of the appellants on bail.
7. In the matter of **Prathvi Raj Chauhan Vs. Union of India & Ors.** It has been held by the Hon'ble Supreme Court that though there is bar under Section 18 of SC/ST Act as to grant of anticipatory bail in the offences under the Act, 1989, however, where prima-facie case is not made out, anticipatory bail can be granted in

appropriate circumstances.

8. In the present case, as is seen from the material available in the case diary, it is victim Shravan Kumar Nayak who first assaulted the appellant Narsingh Yadav by slapping him and thereafter the only incident took place. The vehicle of the appellant Narsingh Yadav was not intercepted by the Nayab Tehsildar during discharge of his official duties and that no hindrance in the official duties seems to have been caused by the appellants. This apart, it also appears that the appellants did not assault the complainant party on the ground of caste. As admitted by the State counsel no case has been registered against the appellants for illegal transportation of the sand.
9. The injuries sustained by the complainant party are simple and no fracture injury was found to have been suffered by them and that they were not hospitalized.
10. Thus, considering the facts and circumstances of the case giving rise to the incident, the fact that victim Shravan Kumar Nayak was the aggressor, the assault was not made by the appellants on the basis of caste, no hindrance was caused by the appellants in discharge of official duties, the nature of injuries sustained by the complainant party, no custodial interrogation is required as admitted by the State counsel, only general and omnibus allegations have been made by the complainant regarding appellants using filthy language on the basis of caste but no any specific allegations is made and the dispute did not arise due to caste but due to assault by the Shravan Kumar Nayak, cautiously considering the material available against the present appellants in light of the judgment of the Hon'ble Supreme Court in the matter of Prathvi Raj Chauhan (supra), no prima-facie case is made out against the present appellants under the SC/ST Act, 1989, no objection on behalf of the counsel for the objector to release all the appellants on bail, the fact that appellants have no criminal antecedents, there is no likelihood of

the appellants there is no likelihood of the appellants tampering with the prosecution evidence or absconding as admitted by both the counsel and looking to the COVID-19 pandemic conclusion of trial may take some time, without commenting anything on merits of the case, the appeals are allowed.

11. It is directed that in the event of arrest of the appellants, they shall be released on anticipatory bail on each of them executing a personal bond for a sum of Rs. 50,000/- with two sureties of 25,000/- each to the satisfaction of the arresting officer with the following conditions:-

- (a) 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 him from disclosing such fact to the Court and investigation officer,
- (b) they shall not act in any manner which will be prejudicial to fair investigation and expeditious trial,
- (c) they shall make themselves available for interrogation by a police officer as and when required.
- (d) they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of appellants involving themselves in similar offence in future.

Sd/-

(Gautam Chourdiya)
Judge