

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No.84 of 2021**

1. Than Singh Rathaur S/o Bahadur Aged About 33 Years R/o CSEB Colony, Q. No. M-401, Dhauligiri, Kranti Shanti Nagar, Korba (West), Tahsil/District-Korba (C.G.)
 2. Ajeet Singh Rathaur S/o Bahadur Aged About 30 Years R/o CSEB Colony, Q. No. M-401, Dhauligiri, Kranti Shanti Nagar, Korba (West), Tahsil/district-Korba (C.G.)
- Appellants**

Versus

State Of Chhattisgarh Through Thana- Darri, District- Korba (C.G.) (Thana Name Wrongly Mentioned In Order Sheet), District : Korba, Chhattisgarh

---- Respondent

For Appellants	:	Shri Samir Singh, Advocate
For Respondent/State	:	Shri Praveen Shrivastava, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board**04/03/2021**

Heard.

1. This appeal has been filed by the appellants against order dated 07.01.2021 passed by Special Judge (SC/ST Act), District Korba (CG), by which, the appellant's application for grant of anticipatory bail has been rejected.
2. The appellants are apprehending their arrest in connection with Crime No.230/2020 registered at Police Station–Darri, District Korba (C.G.) for alleged commission of offence under Section 294, 323, 506/34 of IPC and Section 3(2)(v-A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').
3. The prosecution case is that the applicants assaulted the victim making observation regarding refuse by the victim as he belongs to schedule tribe. It is said that the applicants assaulted, abused and intimidated.
4. Learned counsel for the applicants would submit that present is a case of false implication because 10 days prior to alleged incident, a dispute had already arisen between the parties because of removal of debris from the

property lying adjacent to the house of the present applicants with the complainant and therefore, the complainant in order to falsely implicate the applicants, has lodged a false report. He would submit that the offences alleged are bailable in nature except one alleged under Section 3(2)(v-A) of the Act of 1989. He would submit that on the face of it, a case of commission of offence under Section 3(2)(v-A) of the Act of 1989 is not made out, therefore, bar under Section 18 of the Act of 1989 would not be attracted against grant of anticipatory bail. In support of his submission, learned counsel for the applicants placed reliance upon the judgment of the Supreme Court in the case of **Prathvi Raj Chauhan Vs. Union of India and Others, 2020 (4) SCC 727**.

5. On the other hand, learned counsel for the State opposes the prayer and submits that though the offences alleged against the applicants are ordinarily bailable offences being under Section Indian Penal Code and in view of provision contained in Section 3(2)(v-A) of the Act of 1989, offences under Section 323, 506 of IPC are included as offences under the Schedule appended to the Act referable to Section 3(2)(v-A) of the Act of 1989. Since the allegation is of commission of offence under the Act of 1989 which schedule amended vide amendment Act No.2016, offences under the Act is prima facie made out and therefore, the bail application would not be maintainable.
6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the contents of the complaint, it alleges commission of offence under Section 294, 323, 506 of IPC read with Section 34 of IPC and that offences under Section 506 and 323 of IPC are included in the scheduled referable to Section 3(2)(v-A) of SC and ST Act, the application cannot be maintainable as it would be fall within the mischief of Section 18 of the Act of 1989, therefore, the application for grant of anticipatory bail is rejected.
7. The appeal is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge