

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 239 of 2021

1. Vishnu Singh Dev S/o Late Nilendra Pratap Singh Dev, Aged About 27 Years, R/o -Bachwar, P.S -Shankargarh, District -Balrampur-Ramanujganj Chhattisgarh, Presently Resided at Mo. Mathpara, Laxmipur, P.S - Ambikapur District -Surguja, Chhattisgarh.
2. Vivek Singh Dev S/o Shri Ashok Pratap Singh Dev, Aged About 32 Years, R/o- Bachwar, P.S - Shankargarh, District -Balrampur-Ramanujganj, Chhattisgarh.

---- Applicants

Versus

The State of Chhattisgarh Through The Station House Officer, Police Station Ajak Balrampur, District Balrampur-Ramanujganj Chhattisgarh.

--- Respondent

For Applicant	: Mr. Neeraj Mehta, Advocate.
For Respondent-State	: Mr. Vimles Bajpai, GA.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

29/07/2021

Heard.

1. This criminal appeal filed under Section 14-A (ii) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, 'Act of 1989') against the order dated 07.12.2020 passed by learned Special Judge (Atrocities Act) Balrampur, Distt- Balrampur-Ramanujganj, (CG) where appellants' application filed under Section 438 of Cr.P.C has been dismissed.
2. Appellants are apprehending their arrest in connection with Crime No.07/2019 registered at Police Station –Ajak Balrampur, District Balrampur-Ramanujganj, (CG), for the offence punishable under Sections 147, 148, 294, 323, 506 of the Indian Penal Code and Section 3 (1) (r), 3 (1) (s) of the Act of 1989.
3. Case of the prosecution, in brief, is that on 16.04.2019 in morning, appellants alongwith Shravan Singh, Alok Singh, Ravindra Singh and Manmohan Sing were loading sand on truck through poclain machine at

village -Pachawal. At that relevant time, on the instruction Sarpanch of village Panchayat, complainant Dev Kumar alongwith other villagers Munna Singh, Ram Das, Sant Kumar, Ram Chandra Sao, Laxman and Dhaneshwa came there and raised objection of loading sand, due to their objection dispute took place between parties. Appellants and other co-accused persons have used filthy languages and also abused complainant by his caste. Thereafter, a written report was lodged by complainant, based upon which, instant crime was registered against present appellants and 4 others co-accused persons.

4. Learned counsel for the appellants submits that at the time of loading sand on truck from river bed, complainant alongwith other villagers came on spot and objected of loading and excavating sand. During the course of objection, disputed took place between them, which resulted into free fight. Due to which, numbers of persons from both sides suffered injuries on their person. He further submits that appellants is a member of NSUI and on instigation of local MLA, complaint has been lodged against appellants making false allegation of commission of offence under the Act of 1989 only to implicate them in severe crime, whereas no such incident has taken place. It is also pointed out that report ought to have been lodged at Police Station -Sanawal but FIR has been lodged at Balrampur which is out of jurisdiction of place of incident. On the similar allegation, 3 other co-accused persons Sharavan Singh, Alok Singh and Ravindra Singh were granted anticipatory bail vide order dated 01.08.2019 in MCRC No.941/2019 and case of present appellants are also on similar footing. Hence, they may also be entitled for benefit of Section 438 of Cr.P.C. He lastly submits that as members of appellants party have also suffered injuries, they have also lodged FIR vide Annexure A-2 before the

concerned Police Station based upon which, Crime bearing No.23/2019 was registered against Sant Kumar, Dev Kumar (complainant), Ram Das, Ram Chandra Sao and Sanjay Gupta and Ramadhar Yadav.

5. On the other hand, learned State Counsel opposes the bail application. He submits that there is specific allegation against present appellant that they abused complainant by his caste. Hence, they are not entitled for grant of anticipatory bail. He further submits that offence under Section 3(1) (r), 3(1) (s) of the Act of 1989 is also registered against present appellants, therefore, application for grant of anticipatory bail is not maintainable in view of bar under Section 18 of the Act of 1989.
6. Complainant Dev Kumar, present in person through Video Conferencing and submits that he is having objection on release of present appellants on anticipatory bail. He submits that when he alongwith other villagers raised objection on loading of sand on truck from river bed, present appellants and other co-accused have assaulted and abuse him by his caste. He also admits that during the course of fight, both the parties suffered injuries.
7. Heard learned counsel for the parties.
8. Considering the entire facts and circumstances of the case, nature of allegation and the manner in which dispute took place as stated by complainant, submissions made by the learned counsel for the parties and the fact that on similar allegation other co-accused persons have been granted anticipatory bail by the co-ordinate Bench of this Court, I am of the view that bail application of appellants filed under Section 438 of Cr.P.C shall be considered. For the foregoing reasons, I am inclined to grant anticipatory bail to appellants.

9. Accordingly, appeal is allowed and it is directed that in the event of arrest of appellants in connection with the crime in question, they shall be released on bail by the Officer Arresting them on their executing a personal bond in sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The appellants shall also abide by the following conditions :

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

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-