

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 344 of 2021**

1. Dinesh Thawaith Son of Shrawan Kumar Thawaith Aged About 37 Years R/o. Dau Para, Village- Birra, P.S.- Birra, District- Janjgir- Champa (Chhattisgarh)
2. Raju Thawaith @ Chandra Kumar Thawaith S/o Shrawan Kumar Thawaith Aged About 28 Years R/o Dau Para, Village- Birra, P.S.- Birra, District- Janjgir-Champa (Chhattisgarh)

---- Appellants

Versus

- State of Chhattisgarh Through Station House Officer Birra, District- Janjgir-Champa (Chhattisgarh)

---- Respondent

For Appellants	:	Mr. Chitendra Singh, Adv.
For Respondent	:	Mr. Sameer Uraon, G.A.
For Objector	:	Mr. Suresh Kumar Verma, Adv.

Hon'ble Smt Justice Rajani Dubey**Order on Board****13.04.2021**

1. This appeal is directed against order dated 05.03.2021 passed by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Janjgir-Champa (C.G.) under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act for grant of anticipatory bail.
2. The appellants are apprehending their arrest in connection with Crime No. 24/2021, registered at Police Station - Birra, District Janjgir-Champa (C.G.) for the offence punishable under Sections 294, 506, 34 of the IPC and Section 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act.
3. The prosecution story, in brief, is that the complainant,

who is 'Sarpanch' of the Village Birra and a member of Scheduled Caste, was abused with foul and filthy language and got assaulted by the present appellants when she was asking about the illegal possession over the government land.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in the case. He further submits that the FIR was lodged after 88 days of incident which creates a doubt in the whole prosecution story. Referring to Annexure A/2 counsel for the appellants would argue that several complaints were made by appellants and other villagers against the complainant regarding the misusing her position and taking illegal advantages of the 'Sarpanch' post. Because of that complaints, for revenge, the complainant cooked a concocted story against the present appellant and implicated them in the crime in question. He further submits that the appellants have not uttered even a single word about the complainant's caste.
5. On the other hand, learned counsel for the state opposes the bail application and submits that there are 7 previous antecedents against the present appellants of the same crime which shows that they are habitual abusers.
6. Learned counsel for the Objector opposed the bail application by submitting that the present is a case where the victim is known to the appellants as member of the Scheduled Caste and even then, the appellants obstructed, abused and assaulted her. Therefore, there is prima facie material to presume that all this was done intentionally to humiliate her.
7. I have heard learned counsel for the parties and perused

the record.

8. The Co-ordinate Bench of this Court, in the matter of **Pavas Sharma Vs. State of Chhattisgarh and another (CRA No. 806/2020, order dated 22.01.2021)**, has elaborately dealt with the issue pertaining to offence under the Act, 1989 and finds that merely because offence under Section 3(2)(V)(a) of the Act, 1989 was registered against the applicant, learned court below rejected the application holding it to be not maintainable in view of the provisions contained under Section 18 of the Act of 1989, without taking into consideration the law laid down by the Supreme Court in the case of **Prathvi Raj Chouhan Vs. Union of India and Others**¹. Even though, offence under the Act of 1989 is registered, where application for grant of anticipatory bail is filed, the Court is required to apply its mind to the relevant provisions of law and considerations as specified by the Supreme Court in the case of **Prathvi** (supra) and if material on record leads to satisfaction that the complaint does not make out a prima facie case, for applicability of the provisions of the Act of 1989, the bar created under Section 18 of the Act of 1989 shall not apply and in appropriate cases of exceptional nature, benefit of anticipatory bail could be admitted to the applicant. The learned Court below committed patent illegality in mechanically rejecting the bail application. Order of rejection, therefore, cannot be sustained in law, and therefore set aside.
9. After hearing counsel for the parties and considering the facts and circumstances of the case, and in view of the order passed by this Court in **Pavas** (supra), this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the appellants. Accordingly, the

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appeal is allowed. It is directed that in the event of arrest of the appellants in connection with aforesaid crime number, they shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each, with one surety for the like sum to the satisfaction of the concerned arresting/investigating officer or the court concerned, as the case may be, with the following terms and conditions:

- (i) that the appellants shall make themselves available for interrogation before the concerned 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 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/-
(Rajani Dubey)
Judge

V/-