

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 354 of 2021

- Rampad Kashyap S/o Purushottam Kashyap, Aged About 50 Years, R/o : Lalpur Kala, P.S -Lormi, District- Mungeli, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through The Station House Officer of Azak Police Station Mungeli, District- Mungeli, Chhattisgarh.
2. Sambal Singh Dhruv S/o Chedi Lal Dhruv, R/o Lalpur Kala, P.S - Lormi, District- Mungeli, CG.

--- Respondents

For Appellant	: Mr. Pallav Mishra, Advocate.
For Respondent-State	: Mr. Vimlesh Bajpai, GA.
For Objector	: Mr. S.K. Kushwaha, Advocate.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

12/07/2021

Heard.

1. This criminal appeal under Section 14-A (ii) of Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, 'Act of 1989'), has been preferred against the order dated 09.03.2021 passed by learned Special Judge (Atrocities Act) Mungeli, (CG) where appellant's application under Section 438 of Cr.P.C has been dismissed.
2. Appellant is apprehending his arrest in connection with Crime No.44/2021 registered at Police Station –Ajak, Mungeli, for the offence punishable under Sections 294, 506, 323 of Indian Penal Code & Section 3 (1) (d), 3 (1) (r) & 3 (2) (va) of the Act of 1989.
3. Case of the prosecution, in brief, is that on 14.02.2021 at about 9 : 30 AM, complainant was at his fair price shop situated in village -Lalpur Kala, distributing articles to the beneficiaries, at that relevant time present appellant came there and said the complainant that he has not given to

him the rice of last month, on which, complainant replied that he has not given photo, therefore, rice was not given to him. On this appellant became aggressive and abused the complainant in filthy languages, also tried to snatch the Register due to which, 12 pages has been torned. Complainant was also manhandled by the appellant. Incident was reported to concerned police station based upon which aforementioned offences was registered against the present appellant.

4. Learned counsel for the appellant submits that due to personal enmity false and frivolous allegations has been levelled against the appellant. Appellant is also working as 'Assistant Clerk' in the Society. In the year, 2017 one complaint has been lodged against the present complainant and other persons by the Sarpanch of the village Panchayat for commission of offences defined under Sections 147, 294, 342 & 506 of the Cr.PC. (vide Annexure A-5), in which, present appellant is a witness. Said case is pending till date. He further submits that on 05.11.2020, appellant has lodged the complaint to the Collector with regard to the Embezzlement of the rice and charging extra amount than the rate fixed by the State Government (vide Annexure A-4). On 01.02.2021, when appellant sought an information with regard to the status of his complaint under Right to Information Act, the State Machinery came into function and action has been initiated against the present complainant, which made the complainant to lodge a false report against present applicant. He further submits that from reading of the contents of FIR also, it does not reflect that appellant has done any intentional act to humiliate the complainant on being a member of SC/ST. As the allegation levelled against the appellant is false and frivolous, bar under Section 18 of the Act of 1989 would not apply for entertaining the application for grant of

anticipatory bail application to the appellant.

5. On the other hand, learned State Counsel opposes the bail application. He submits that during the course of investigation, the Police has recorded statements under Section 161 of Cr.PC of complainant and other witnesses wherein specific allegation has been levelled against the appellant by all of them with regard to the abuse by caste. Hence, appellant is not entitled for grant of anticipatory bail. It is further submitted that offence under Section 3(1) (d), 3(1) (r) & 3(2) (va) of the Act of 1989 is also registered and as such application for grant of anticipatory bail is not maintainable in view of bar under Section 18 of the Act of 1989.
6. Learned counsel for the Complainant/Objector opposes the submissions made by learned counsel for appellant and submits that applicant has abused the complainant by caste. Upon getting the interim bail by this Court, appellant has threatened the complainant to enter into compromise. In this regard, he has made certain complaints before the concerned authority.
7. Heard learned counsel for the parties.
8. Perusal of the documents annexed alongwith bail application, particularly contents of FIR would show that on the date of incident complaint was lodged by the complainant himself in which there is no mention of any abuse made by appellant by caste, general dispute has been alleged against the appellant by abusing in filthy languages. Appellant has filed Annexure A-3 an order passed by the Assistant Registrar, Cooperative Society Bilaspur in the year 2011 to show that he is working in the society as 'Assistant Clerk'. Appellant has further placed on record Annexure A-4 copy of complaint lodged by him before the Collector making allegations against present complainant that he has distributed Ration in the name of

dead person, embezzlement of the rice and charging extra amount than the rate fixed by the State Government for the beneficiaries.

9. Taken in to consideration the submissions made by the learned counsel for the parties, it appears that appellant is one of the witness in criminal case registered against the complainant and others in the year, 2017, which is pending before this Court as stated by the learned counsel for the appellant and not reputed by the learned counsel for the Objector/Complainant. Copy of FIR is filed alongwith application.
10. So far as submission made by learned counsel for the Objector with regard to certain complaints about threat for entering compromise is concerned, the Objector has not placed on record any documents in this regard.
11. Considering the entire facts and circumstances of the case, nature of allegation, complaint made by appellant to the Collector alleging some irregularities in running the fair price shop by complainant, law laid down by the Hon'ble Supreme Court in cases of **Dr. Subhash Kashinath Mahajan vs. State of Maharastra and Anr** reported in **(2018) 6 SCC 454** & **Prathvi Raj Chauhan vs. Union of India and Ors** reported in **(2020) 4 SCC 727**, I am of the view that in the facts of the case bar under Section 18 will not apply. For the foregoing reasons, I am inclined to grant anticipatory bail to appellant.
12. Accordingly, appeal is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on bail by the officer arresting him on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The appellant shall also abide by the following conditions :

- (i) that the appellant shall make himself for interrogation before the investigating officer as and when required;
- (ii) that the appellant 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 appellant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the appellant 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/-