

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 406 of 2021**

1. Shiv Kumar Sahu S/o Shri Aasharam Sahu Aged About 39 Years R/o Village Dalpurwa Police Station And Tahsil Pandariya , District Kabirdham Chhattisgarh.
2. Ashok Sahu S/o Shri Bisouha Sahu Aged About 37 Years R/o Village Dalpurwa Police Station And Tahsil Pandariya, District Kabirdham Chhattisgarh.
3. Mannu Sahu S/o Bisouha Sahu Aged About 32 Years R/o Village Dalpurwa Police Station And Tahsil Pandariya, District Kabirdham Chhattisgarh.
4. Parasram Sahu S/o Shri Aasharam Aged About 69 Years R/o Village Dalpurwa Police Station And Tahsil Pandariya, District Kabirdham Chhattisgarh.

----Appellants**Versus**

- State of C.G. Through Station House Officer Police Station Pandariya, District Kabirdham Chhattisgarh.

---- Respondent

For Appellants	:	Mr. F.S. Khare, Advocate.
For Respondent/State	:	Mr. Vimlesh Bajpai, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****23.06.2021**

The appellants have preferred this criminal appeal under Section 14(A)(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of anticipatory bail, as they apprehend their arrest in connection with Crime No. 88/2020, registered at Police Station – Pandariya, District Kabirdham (C.G.) for the offence punishable under Sections 294, 323/34, 506B of the IPC & Sections 3(1)(10) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocity), Amendment Act, 2015.

As per the prosecution case the allegation against the present appellants is that they have threatened the wife and child of the complainant and also hurled abuses them in the name of the caste. Based on this FIR has been registered against the applicants.

Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in the case. He further submits that in the FIR, there is no allegation of hurling abuses in the name of caste but later on, appellants came to know that offence under Sections 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act has been levelled. He further submits that the appellants have not uttered even a single word to the complainant's son and wife.

On the other hand, learned counsel for the State opposed the bail application.

I have heard learned counsel for the parties and perused the record.

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.

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 appeal is allowed. It is directed that in the event of arrest of the appellants in

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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**