

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 456 of 2021**

- Vishnudas Mahant, S/o Gyan Das Mahant, aged about 32 years, R/o village Podi (Chhal), Thana – Chhal, District Raigarh (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, Through : Police Station – Chhal, District Raigarh (C.G.)

---- Respondent

For Appellant	:	Mr. Sanjay Agrawal, Advocate
For Respondent	:	Mr. Vimlesh Bajpai, G.A.
For Objector	:	Mr. Shobhit Koshta, Advocate.

Hon'ble Smt Justice Rajani Dubey**Order on Board****16/06/2021**

1. Proceeding through video conferencing.
2. The appellant has 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 he apprehends his arrest in connection with Crime No.21/2020, registered at Police Station – Chhal, District Raigarh (C.G.) for the offence punishable under Sections 294, 506-B, 323, 326/34 IPC and Section 3(2)(v a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity), Act, 1989.
3. The prosecution story, in brief, is that complainant Shiv Prasad Gond, who is a member of Scheduled Tribe, lodged a report at police station Chhal, alleging therein that when his uncle Bhanwar Singh Gond went to

construct the drainage in the field, where co-accused Shivdas Mahant was also working with his brothers, asked victim Bhanwar Singh as to why he is constructing drainage in his field and used filthy language. It is alleged that when the quarrel took place between the parties, the present applicant assaulted victim Bhanwar Singh Gond with axe and also threatened to kill her. Based on this FIR has been registered against the applicant.

4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the case. He further submits that the name of present applicant does not find place either in FIR or in memorandum statement. He also submits that the present applicant has not uttered even a single word about victim's caste. He also submits that vide order dated 18.05.2020 passed in MCRC No.1671/2020, other co-accused persons namely Shivdas Mahant and Lalit Das Mahant have been granted bail by this Court. Therefore, the present applicant may also be granted anticipatory bail.
5. On the other hand, learned counsel for the State opposed the bail application.
6. Learned counsel for objector vehemently opposed the bail application and submits that there is direct allegation against the present applicant that he assaulted the victim with axe and this fact has been recorded by the trial Court in bail rejection order. Therefore, the anticipatory bail may not be granted to the appellant.
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 appellant. Accordingly, the appeal is allowed. It is directed that in the event of arrest of the appellant in connection with aforesaid

¹ (2020) 4 SCC 727

crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- 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 appellant shall make himself available for interrogation before the concerned 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 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 him by the said Court till disposal of the trial.

Sd/-
(Rajani Dubey)
Judge