

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**CRA No. 656 of 2021**

1. Sakindra Gupta S/o Shyam Sundar Gupta, aged about 51 years
2. Rukmani Gupta W/o Sakindra Gupta, aged about 47 years

Both are R/o village Manpur, PS Chalgali, Dist. Balrampur,
Ramanujganj, Chhattisgarh

-----Applicants**VERSUS**

- State of Chhattisgarh through: SHO, Police Station Balrampur (AJAK), District Balrampur, Ramanujganj Chhattisgarh
- Lalji Gond S/o Fadku Gond, R/o Village Manpur, PS Chalgali, Dist. Balrampur-Ramanujganj Chhattisgarh

-----Complainant**-----Non-applicants**

For Applicants	: Mr. Jitendra Shrivastava, Adv.
For Non-applicant- State	: Mr. Vimlesh Bajpai, Govt. Adv.

*(proceedings through video conferencing)***Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****17/08/2021**

1. Mr. Jitendra Gupta, learned counsel for the appellants submits that he may be permitted to withdraw application with regard to appellant no. 1. However, he submits that looking to the medical ailments of appellant no. 1, a direction be issued to the Court below concerned to consider and decide the application for grant of bail if filed by appellant no. 1 after his surrender.
2. Mr. Vimlesh Bajpai, learned State counsel submits that he is having no objection to the submissions made by learned counsel for the appellants.
3. As prayed, application with respect to appellant no. 1 is dismissed as

withdrawn. Learned Court below may consider and decide the application for grant of bail if filed by appellant no. 1 after his surrender, if possible, on the same day in accordance with law.

4. Heard this appeal with respect to appellant no. 2.
5. Appellant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as she apprehends her arrest in connection with Crime No. 18/2021 registered at Police Station Balrampur (AJAK), District- Balrampur Ramanujganj (C.G.) for the offence punishable under Sections 294, 506, 323, 34 of IPC and Section 3(1) (R-S) of the SC/ST (Prevention of Atrocities) Act, 1989.
6. As per the case of prosecution, on 28.05.2021 at about 03:30 pm when the complainant went to his agricultural field, he saw that appellants and his minor son were putting mud on the edge of their agricultural field from his agricultural field upon which complainant objected, thereafter, appellant along with her husband and son started abusing him in filthy language and assaulted the complainant and further abused him by his caste. Incident was informed to the concerned police station on next day ie. 29.05.2021 based upon which instant crime is registered against present appellant and two others ie. her husband Sakindra Gupta and minor son Manu Gupta.
7. Mr. Jitendra Gupta, learned counsel for the appellants submits that the allegation levelled against the present appellant with respect to commission of offence under the SC/ST Act is absolutely false and baseless. He submits that on 28.05.2021, complainant Lalji Gond along with his uncle Ramnath came to the house of Sakindra Gupta, abused and assaulted the family members present there along with Sakindra Gupta. He went to lodge the report but after receiving a

phone call of Lalji Gond by his elder brother, he has not registered the incident to the police station on the same day. But the Sakindra Gupta, husband of appellant no. 2, lodged the complaint to the police station on 29.05.2021 at about 01:50 pm and offence under Section 294, 323, 34, 452, 506 of IPC was registered against the complainant and is uncle Ramnath Gond. He further submits that the complainant has lodged report after lodging of F.I.R. by Sakindra Gupta only at about 07:45 pm. He contended that from going through the entire contents of F.I.R., there is no specific allegation against the appellant that she had abused the complainant by his caste but general allegation against all the three persons have been levelled. He submits that appellant being lady could not use filthy words including abusement by caste as mentioned in the F.I.R., allegations against appellant no. 2 are false to implicate entire family, hence, she may be enlarged on anticipatory bail. He further submits that as there is no specific allegation against appellant no. 2 of abusing the complainant by his caste but for general allegations and she is falsely implicated in the crime, bar under Section 18 of the SC/ST Act would not be applicable. He further relied upon the judgment of Hon'ble Supreme Court in the case of ***Prathvi Raj Chauhan v. Union of India and others*** reported in **(2020) 4 SCC 727**.

8. On the other hand, Mr. Vimlesh Bajpai, learned State counsel opposes the submissions made by learned counsel for the appellants and submits that as per the case diary, complainant intimated the incident first at about 01:30 pm on 29.05.2021 ie. 13:30 hours which is prior to lodging the report by Sakindra Gupta/ husband of appellant no. 2. F.I.R. was lodged on the basis of written complainant submitted by complainant later on, therefore, it cannot be said that

the complainant has not lodged the complaint immediately but only as a counter-blast of lodging of report by Sakindra Gupta. Further putting specific query with regard to specific allegation with respect to appellant no. 2 of abusing the complainant by his caste, he submits that there is no specific allegation against appellant no. 2 but general allegations have been levelled against all the accused persons. He also read-over the contents of F.I.R. wherein along with abusement in filthy words, complainant was also abused by the caste.

9. Mr. Lalji Gond, complainant, is also present in person before this Court through DLSA, Balrampur. He submits that appellants have assaulted and also abused him on his caste, hence, they are not entitled for grant of anticipatory bail.
10. I have heard learned counsel for the respective parties.
11. Taking into consideration, the nature of allegation, filthy words used in continuation of abusement to complainant by his caste, further that there is no specific allegation against the appellant no. 2 of abusing the complainant by his caste and also considering that the counter F.I.R. is also registered by husband of appellant no. 2, taking support of the ruling of Hon'ble Supreme Court in the case of **Prathvi Raj Chauhan (supra)**, I am of the view that in the facts of the case, sofar as, considering the application for grant of anticipatory bail with respect to appellant no. 2 who is a lady can be considered, without commenting anything on merits of the case, I am inclined to allow the bail application with respect to appellant no. 2.
12. Accordingly, application with regard to appellant no. 2 is allowed and it is directed that in the event of arrest of appellant in connection with the crime in question (18/2021), she shall be released on anticipatory

bail by the Officer arresting her on her executing a personal bond in the sum of Rs. 25,000/- with surety in the like sum to the satisfaction of the concerned arresting Officer. Appellant shall also abide by the following conditions:

- (i) that the appellant shall make herself available for interrogation before the Investigation 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 her by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan