

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 696 of 2021

1. Ashok Yadav, aged about 51 years, S/o Manharan Yadav,
 2. Shakti, aged about 20 years, S/o Ashok Yadav
- Both R/o Village Turri, P. S. Nagarda, District Janjgir Champa (C.G.).

---- Appellants

Versus

State of C.G. through Station House Officer, P. S. Nagarda,
District Janjgir Champa (C.G.).

....Respondent

For Appellants	: Shri F.S. Khare, Advocate
For Respondent/State	: Shri Vimlesh Bajpai, Govt. Advocate
	Shri Ravi Maheshwari, Advocate is present along with complainant through virtual mode

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

05.08.2021

1. This criminal appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth 'the Act of 1989') has been preferred against the order dated 30.06.2021 passed by learned Special Judge (Atrocity), Janjgir District Janjgir-Champa, C.G. rejecting application of appellants for grant of anticipatory bail in connection with Crime No.19 of 2021 registered at Police Station Nagarda, District Janjgir-Champa (C.G.), for commission of offence punishable under Sections 341, 294, 506(B), 325, 34 of IPC & 3(2)(5) of the Act of 1989.
2. Case of the prosecution, in brief, is that, on 19.03.2021 when complainant was returning from Turri Fare after watching a Movie, present appellants have obstructed his way, abused in

filthy language and assaulted him by means of stick. They have also tried to fold his hand, upon which, he suffered injuries over his person. The incident was reported on 20.03.2021 to concerned Police Station, based upon which, instant crime was registered against the present appellants.

3. Shri F.S. Khare, learned counsel for the appellants would submit that while returning from Fare, dispute took place between the parties and complainant as well as appellants have assaulted each other. In the incident, appellant No.2/Shakti also suffered injuries who lodged the report on same day immediately after the incident at about 23.50 hours i.e. 11.50 P.M. He was sent for MLC and upon finding the injuries suffered by appellant No.2 to be simple in nature, proceedings under Section 155 of Cr.P.C. has been drawn, which is evident from Annexure A/2. He further pointed out that complaint against them was on next day, there is no allegation in written complaint against the appellants that they assaulted and abused in filthy language only because of his social status. The Court below has dismissed the application only on the ground that application for grant of anticipatory bail is not maintainable in view of bar under Section 18 of the Act of 1989. He further submits that as there is no allegation of committing any offence under Section 3(1) of the Act of 1989, hence, bail application would be maintainable. It is contented that complaint lodged on 28.04.2021 is an afterthought only to falsely implicate the appellants in severe crime.

4. Per contra, Shri Vimlesh Bajpai, learned Govt. Advocate for the State opposes the submissions made by learned counsel for the appellants and submits that complainant suffered fracture injuries over his right elbow joint. He also pointed out as the offence under Section 3(2)(v) of the Act of 1989 is also registered against the appellants, learned Court below is justified in not entertaining the application for grant of anticipatory bail.
5. Shri Ravi Maheshwari, learned counsel is present along with complainant. He submits that appellants have assaulted him on 19.03.2021 and thereafter again, threatened the complainant that they have made assault upon him on 28.04.2021. He further submits that on that date also, appellants was dragged out the complainant from his house and abused him by his caste, hence, appellants are not entitled for grant of anticipatory bail. He pointed out that in view of specific bar under Section 18 of the Act of 1989, application for grant of anticipatory bail will not be maintainable.
6. Shri Khare submits that the allegation and complaint of 28.04.2021 is an afterthought after about more than one month of first incident levelling all sorts of allegation. Police has not taken any cognizance or registered any separate crime on the alleged complaint dated 28.04.2021.
7. I have heard learned counsel for the parties.

8. The contents of written complaint filed on 20.03.2021 has been read over by learned counsel for the State. In the written complaint filed on 20.03.2021, there is no allegation of abusing the complainant by his caste or there is no allegation that complainant was assaulted only because of his social status. Appellant No.2 has lodged the report of incident of *Marpeet* on 19.03.2021 i.e. immediately after about 50 minutes of the incident to concerned Police Station, but proceedings under Section 155 of Cr.P.C. was drawn vide Annexure A/2. Perusal of Annexure A/2 would show that proceedings have been drawn under Section 155 of Cr.P.C. because in MLC report of appellant No.2, doctor has mentioned the injuries to be simple in nature.
9. Taking into consideration the facts and circumstances of the case, nature of allegations and further the fact that appellants also suffered injuries, appellant No.2 immediately reported the incident to concerned Police Station, based upon which, proceedings under Section 155 of Cr.P.C. has been drawn, without commenting anything on the merits of the case, I am inclined to grant anticipatory bail to the appellants.
10. Accordingly, the appeal is allowed and it is directed that in the event of arrest of appellants in connection with the crime in question, they be released on anticipatory bail by the Officer arresting them on their executing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with

one surety in the like sum to the satisfaction of the concerned Investigating Officer. The appellants shall also abide by the following conditions :

- (i) that the appellants shall make themselves available for interrogation before the 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 so as to dissuade them 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/-
(Parth Prateem Sahu)
Judge

Yogesh