

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 826 of 2021**

Pragyesh Tiwari S/o Ramesh Tiwari Aged About 44 Years, R/o Dullapur Bazar P. S. and Tehsil Pandariya District Kabirdham Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Police Station Lormi Chowki Chilfi District Mungeli Chhattisgarh.

---- Non-applicant

 For Applicant : Mr. Bharat Sharma, Advocate
 For Non-applicant/State : Mr. Vimlesh Bajpai Govt. Advocate
 For objector : Ms. Rajni Soren, Advocate

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

Order on Board**29.07.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.197 of 2021, registered at Police Station Lormi, Chowki Chilfi, District Mungeli, for offence punishable under Sections 306, 506 of Indian Penal Code and Section 4, 5 of the Chhattisgarh Tonahi Pratadna Act, 2005.
2. Case of the prosecution in brief, is that, on 14.06.2021, Shabana Bai set herself ablaze. On 15.06.2021, First Information Report was registered against Jagdish Gond, Sushila Bai, Rajju Gond, Sarojni Bai and Bharat who are residents of village Ghatoli. The

applicant is apprehending his arrest in the aforementioned crime registered by the police.

3. Mr. Bharat Sharma, learned counsel for the applicant submits dying declaration of deceased Shabana Bai was recorded wherein she has not stated name the present applicant. He further submits that Yashoda Bai, daughter of deceased has also named other persons, but has not taken the name of present applicant during the course of investigation. The applicant was out of village at Pachmadhi, Madhya Pradesh from 09.06.2021 to 13.06.2021, hence, applicant may be enlarged on anticipatory bail.
4. Per contra, Mr. Vimlesh Bajpai, learned Govt. Advocate representing the State vehemently opposes the bail application and submits that the allegation of harassment is against persons of entire village on the ground that she was Tonhi. He further submits that there was allegation of harassment and also life threat to the deceased, which made her to commit suicide, hence, present applicant is not entitled for grant of anticipatory bail.
5. Mr. Rajni Soren, learned counsel for the objector would submit that present applicant is neighbour to the deceased, he along with other villages was continuously harassing her on the pretext that she was Tonhi and playing witchcrafts. Family member of deceased lodged number of complaints against villagers, but no action has been taken. Even after incident no action against the culprit. Even before the incident, daughter of deceased Yashoda Bai went to lodge her report pleading therein that her mother was being ill-treated and harassed and also given life threat by the

villagers. Written complaint was not accepted by Police Officials present in the Police Station. One of the Police Officials gave phone number and stated that he will visit the village and enquire into the matter. She also submits that complaint has been lodged on 13.06.2021 before Superintendent of Police and Deputy Superintendent of Police (Police Station Ajak, District Mungeli), but police did not take proper action. She also submits that dying declaration could not be taken into consideration at this stage. She is having some video recording with her which will be placed at the time of evidence. She further submits that in fact it is a case of a murder and further Police has not registered the case under the provisions of Scheduled Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989. The applicant is a politically influential person, hence, his name might not have been taken, but in the application placed before the Police Authority, name of applicant is specifically mentioned, hence, he may not be granted anticipatory bail.

6. I have heard learned counsel for the parties.
7. After the incident, dying declaration of deceased was recorded, in which, she has levelled allegation against Jagdish Gond, Sushila Bai, Rajju Gond, Sarojni Bai and Bharat. In the First Information Report though name of other persons are there, but name of present applicant does not find place. Documents are filed showing applicant prior to date of incident was out of station for three four days.

8. Taking into consideration entire facts and circumstances of the case, nature of allegations, particularly, dying declaration of deceased and further contents of First Information Report, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.
9. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall be abide by the following conditions :-

(i) he shall make himself available for interrogation by a police officer as and when required;

(ii) he 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 from disclosing such facts to the Court or to any police officer.

(iii) he shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-

(Parth Prateem Sahu)
Judge