

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**CRA No. 790 of 2021**

- Dhansai Sahu S/o Chowaram Sahu, aged about 42 years R/o village Bamahanibhata, P.S./ Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh

-----Appellant**VERSUS**

- State of Chhattisgarh through: SHO, Police Station Anusuchit Jati Kalyan Rajnandgaon, District Rajnandgaon, Chhattisgarh

-----Respondent

For Appellant : Mr. G.S. Ahluwalia, Adv.

For Respondent- State : Mr. Vimlesh Bajpai, Govt. Adv.

*(proceedings through video conferencing)***Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****31/08/2021**

1. This appeal arises out of rejection of application filed under Section 438 of CrPC filed in connection with crime bearing no. 04/2021, registered at Police Station- Anusuchit Jati Kalyan, District Rajnandgaon, Chhattisgarh, for offence defined under Sections 294 & 506 of IPC and Section 3(1)(r) & (s) of SC/ST (Prevention of Atrocities) Act, 1989 (for short "Act of 1989").
2. Appellant apprehending his arrest in crime no. 04/2021, had filed an application under Section 438 of CrPC before the Special Judge (SC/ST Prevention of Atrocities) Act, Rajnandgaon, District Rajnandgaon, Chhattisgarh, which was dismissed by impugned order dated 22.07.2021.
3. As per the case of prosecution, complainant who is working as Rojgar Sahayak in village panchayat Bamahanibhata, Rajnandgaon

lodged a complaint before the concerned police station making allegations that when she along with Sarpanch Devsingh Sahu, Upsarpanch Smt. Devsri Manikpuri and Technical Assistant T. Akshay Rao were on the spot inspection of newly digging well on the land of Deendayal Barle (Satnami) under MNREGA scheme, while so, present appellant came there, started abusing complainant in filthy language and also abused her by her caste. Based on which, instant crime was registered against the present appellant for the aforementioned offences.

4. Mr. GS Ahluwalia, learned counsel for the appellant submits that complainant who is working as Rojgar Sahayak was supervising the work of newly dug well under the MNREGA scheme on the field of Dindayal Barle (Satnami), beneficiary. The work as sanctioned by the Engineer for digging upto 30 ft deep, but it was only 19 ft which was objected by the beneficiary and present appellant, hence, false allegations are levelled against the appellant. He further submits that on the spot, complainant along with others were present for preparing the report, based on the complaint lodged by appellant along with beneficiary Dindayal Barle. In the report prepared on spot on same day, there is no mention of any incident as alleged against the present appellant. He submits that as the allegations are absolutely false and baseless with malafide intention, bar under Section 18 of the SC/ST Act will not be attracted as held by Hon'ble Supreme Court in the case of ***Prathvi Raj Chauhan v. Union of India and others*** reported in **(2020) 4 SCC 727**.
5. On the other hand, Mr. Vimlesh Bajpai, learned State counsel opposes the submissions made by learned counsel for the appellant and submits that apart from the allegations levelled by the

complainant in FIR, persons present there on spot who are Sarpanch, up-Sarpanch and Technical Assistant of village panchayat have made statement with regard to commission of crime by the appellant and further have supported the case of complainant that the appellant abused the complainant by her caste, hence, the contention of learned counsel for the appellant that false and frivolous allegation is levelled against the appellant is not sustainable. He read-over the statements of Devsingh Sahu, Devsri Manikpuri and T.Akshay Rao in support of his contentions.

6. I have heard learned counsel for the respective parties.
7. Taking into consideration the nature of allegations, particularly, the statement recorded under Section 161 of CrPC of Sarpanch Dev Singh, up-sarpanch Devsri Manikpuri and T.Akshay Rao, prayer for grant of anticipatory bail cannot be considered in view of specific bar under Section 18 of the SC/ST Act. In view of above, leaned court below has not erred in dismissing the application for grant of anticipatory bail to be not maintainable.
8. For the foregoing reasons, appeal being devoid of any substance is liable to be and is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
 Judge