

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 739 of 2020**

Lucky Arora, aged about 24 years S/o Pawan Arora R/o House No. 236, Marar Para, Kondagaon, Distt. Kondagaon (C.G.).

----Appellant**Versus**

State of Chhattisgarh, through Police Station Farasgaon, Distyriect Kondagaon (C.G.)

---- Respondent

For Appellant	:	Mr. Raza Ali, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****21/01/2021**

1. This appeal has been preferred under Section 14-A(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2016 (henceforth the Act) against the order dated 22/07/2020 passed in bail application No. 382/2020 by the Sessions Judge, Kondagaon (C.G.) whereby the learned Sessions Judge has dismissed the bail application preferred under Section 438 of the Cr.P.C., relating to crime no. 17/2020 registered at police station Farasgaon, Kondagaon for the offence punishable under Section 294, 323, 506 of the IPC and Section 3-1 (R-S) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. According to the case of the prosecution, on 13/11/2018 a written complaint has been filed by the Complainant Mohan Markhan, MLA, Kondagaon stating therein that on 11/08/2018 during campaigning when he reached to village Sonabeda, at that time the appellant and one

Shyam Kumari during campaigning, were distributing money. When the Complainant opposed the same, then the appellant abused him on his caste. The appellant also assaulted him and threatened him to kill. On the basis of the said report, offence has been registered against the appellant. Thereafter, the appellant moved an application under Section 438 of the Cr.P.C for grant of anticipatory bail before the Sessions Court, Kondagaon. The Sessions Judge vide order dated 22/07/2020 rejected the said bail application. Thus, this bail application has been filed by the appellant.

3. Counsel appearing on behalf of the appellant submits that after rejection of bail application submitted under Section 438 of the Cr.P.C, firstly, the appellant preferred an application for grant of anticipatory bail before this Court. Since the bail application was not maintainable, therefore, the said bail application was dismissed as withdrawn vide order dated 16/09/2020 passed in MCRCA No. 1026/2020 and thereafter, the appellant has preferred this appeal against the rejection order dated 22/07/2020. He further submits that the applicant is innocent and falsely implicated in the present case due to political rivalry. Prima-faice no case is made out against the applicant. He further submits that in this case FIR has been lodged after 2 years of the incident. Virtually on the date of incident, the Complainant assaulted the appellant and abused him and in this regard a report has been lodged by the appellant, on which FIR has also been registered. Thereafter, to save himself, after two years of the incident, this report has been made, therefore, prima-faice no case is made out against the appellant. He prays that the appellant may be granted benefit of anticipatory bail.

4. Counsel appearing on behalf of the State opposes the same and submits that though FIR has been registered on 22/02/2020, written complaint has already been submitted by the Complainant on 13/11/2018, thus it cannot be said that the matter has been informed after two years to the police. He further submits that in the written complaint as well as the statements of the witnesses recorded under Section 161 of the Cr.P.C, it has been categorically stated that the appellant has abused the Complainant over his caste, therefore, there is sufficient material available on record and prima-faice offence under Section 3-1 (R-S) of the Act is made out against the appellant. He further submits that looking to the bar contained in Section 18 of the Act, the appellant is not entitled to get benefit of anticipatory bail.
5. I have heard counsel for the parties and perused the case diary, FIR and statements of witnesses recorded under Section 161 of the Cr.P.C.
6. On perusal of written complaint as well as the statement of witnesses recorded under Sections 161 of the Cr.P.C, I found that there is sufficient material available on the basis of which offence under Section 3-1 (R-S) is made out against the appellant. Looking to the above, in my considered view, the Sessions Court has rightly rejected the bail application of the appellant.
7. Consequently, I do not find any merit in this appeal and the same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge