

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**CRA No. 901 of 2021**

- Milan Kumar Samal S/o Upendra Kumar Samal aged about 29 Years R/o Village and Post Dhola, Police Station Nikirai, District Kendupada, Orrisa. At Present R/o Branch Manager, Bank of Maharashtra, Branch Mahasamund, District Mahasamund Chhattisgarh

-----Appellant**VERSUS**

- State of Chhattisgarh through: Police Station Pithora, District Mahasamund, Chhattisgarh

-----Respondent

For Appellant	: Mr. P.N. Bharat, Sr. Adv. with Mr. Keshav Dewangan, Advocate
For Respondent	: Mr. Vimlesh Bajpai, Govt. Adv.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****30/09/2021**

1. This appeal under Section 14(A)(2) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities Act) 1989 arises out of rejection of application for anticipatory bail *vide* order dated 13.08.2021 filed under Section 438 of CrPC in connection with crime bearing no. 196/2021, registered at Police Station- Pithora, District Mahasamund, Chhattisgarh, for offence defined under Sections 306, 420 of IPC and Section 3(2)(V) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities Act) 1989.
2. As per the case of prosecution, that on 06.08.2021, Alharam committed suicide in his house. The said Incident was reported to concerned police station by Ramkumar Baghel son of Alharam. During the course of merg enquiry, police seized one suicide note from spot levelling allegations against present appellant of

demanding money and also withdrawal of money from his bank account without his permission as also threatening. Based on the merged enquiry and contents of suicide note, aforementioned crime was registered against appellant.

3. Mr. P.N. Bharat, learned senior counsel for appellant would submit that the deceased Alharam was working as bank collection agent since 2017. Appellant is working as bank manager and posted at concerned Branch in the year 2018. Deceased was having total six accounts in his name in which three were loan accounts, one current account having maximum limit of Rs. 85,000/- and two saving accounts. The current account managed by the deceased is to reconcile with the collection and disbursement of the amount to the customers of the bank which was inducted through him and the amount is being collected from them by the deceased. On 30.07.2021, current account suffered deficit of Rs. 50,000/-, hence, deceased himself has stated to the appellant to withdraw the amount of Rs. 50,000/- from his account and to deposit the same in the bank account. The transaction of Rs. 50,000/- as alleged against the appellant to have been fraudulently withdrawn is for the purpose of bank. By withdrawal of Rs. 50,000/- appellant is not benefited in any manner but the said amount has been deposited in the bank. He further submits that as the appellant is not benefited in any manner, the offence under Section 420 of IPC would not be attracted against him. It is further contended that there is no ingredient available in the case diary to attract offence under Section 306 of IPC as well. There is no allegation of abetment. Section 3(2)(v) of SC/ST Act, 1989 has been charged only because the deceased belonged to reserved category, there is no allegation against appellant that any offence is

committed by the appellant only because deceased belonged to reserved category. The Court below dismissed the application for grant of anticipatory bail holding that in view of bar under Section 18 of SC/ST Act, 1989, anticipatory bail application would not be maintainable. Learned counsel relied upon the judgment of Hon'ble Supreme Court in case of ***Prathvi Raj Chauhan v. Union of India and others*** reported in **(2020) 4 SCC 727** and submits that in exceptional circumstances application for anticipatory bail can be considered by High Court. Unless and until there is specific allegation of offence committed only on the ground that complainant belongs to a particular caste, offence under Section 3(2)(V) of the SC/ST Act, 1989 will not be attracted, hence, bar under Section 18 of the SC/ST Act, 1989 will not be attracted in this case and application for grant of anticipatory bail can be considered.

4. On the other hand, Mr. Vimlesh Bajpai, learned State counsel opposing the submissions made by learned counsel for appellant would submit that the allegation against appellant is that the appellant withdrawn Rs. 50,000/- from the account of deceased through unsigned cheque. The cheque was not signed by the deceased. He also pointed out that the amount of Rs. 50,000/- was not deposited in the bank account but the cash amount was withdrawn through cheque bearing number 341732. It is also pointed out that the cheque book in the name of deceased was issued on the same day ie. 30.07.2021 when the amount of Rs. 50,000/- was withdrawn through unsigned cheque. The application for issuance of cheque book was also not signed by the deceased, hence, there is prima facie involvement of appellant in commission of offence under Section 420 IPC. He submits that in view of bar under Section 18 of

SC/ST Act, 1989, the Court below has rightly dismissed the bail application to be not maintainable.

5. I have heard learned counsel for respective parties.
6. So far as, the submission made by learned Senior counsel with respect to maintainability of anticipatory bail application is concerned, though the offence under Section 3(2)(v) of SC/ST Act, 1989 is registered against applicant but there is no allegation that the appellant has committed any offence only because deceased belonged to particular caste. Hon'ble Supreme Court in case of **Dinesh alias Buddha v. State of Rajasthan, (2006) 3 SCC 771**, while dealing with Section 3(2)(v) of the Act of 1989 has held thus:

“15. Sine qua non for application of Section 3(2)(v) is that an offence must have been committed against a person on the ground that such person is a member of Scheduled Castes and Scheduled Tribes. In the instant case no evidence has been led to establish this requirement. It is not case of the prosecution that the rape was committed on the victim since she was a member of Scheduled Caste. In the absence of evidence to that effect, Section 3(2)(v) has no application. Had Section 3(2)(v) of the Atrocities Act been applicable then by operation of law, the sentence would have been imprisonment for life and fine.”

7. In view of rulings of Hon'ble Supreme Court in case of **Dinesh alias Buddha (supra)** and **Prathvi Raj Chauhan (supra)**, application for grant of anticipatory bail can be considered and bar under Section 18 of the SC/ST Act, 1989 would not be attracted to the facts of present case.
8. So far as, the submission of learned Senior counsel with respect to no offence is made out under Section 420 IPC is concerned, the

material collected by the investigating agency after registration of crime through Bank as argued by counsel for State that the cheque was dated 30.07.2021 which was not signed by deceased/ the account holder and further the amount of Rs. 50,000/- has been withdrawn in cash and not deposited in the bank account as submitted by learned senior counsel. The other submission of learned State counsel is that the cheque book was issued on the same date without there being any request application by the deceased/ account holder for issuance of cheque book.

9. Considering the aforementioned facts and material available in the case diary, I do not find it a fit case to enlarge the applicant on anticipatory bail.
10. Accordingly, application for grant of anticipatory bail is dismissed.
11. At this stage, learned senior counsel for appellant submits that appellant has submitted application form for appearing in UPSC examination, the date of examination is stated to be on 10th October 2021 for which admit card is also placed on record, hence some limited protection be given.
12. Considering the submissions made by learned counsel for appellant, it is directed that no coercive steps shall be taken against appellant for a period of two weeks from today. Thereafter, appellant shall surrender before the Court of competent jurisdiction.

Sd/-
(Parth Prateem Sahu)
Judge