

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 751 of 2020**

- Durga @ Durga Kuldeep D/o Mathura Aged About 39 Years
Cast Pnika, R/o House No. 13, Ward No. 1, Malaviya Nagar,
S.B.I. Colony Keradol Podi, Police Station Podi, District Korla
Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through: The Officer In Charge, Police
Station / Scheduled Caste Welfare (Sc / St) Police Station)
Baikunthpur, District: Korla, Chhattisgarh.

---- Respondent

For Appellant	-	Shri Surfaraj Khan, Advocate.
For Respondent	-	Shri Ravish Verma, Government Advocate.
For Objector	-	Shri Ajay Mishra, Advocate on behalf of Shri Pushkar Sinha, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board**10/02/2021**

1. Heard.
2. The appellant has preferred this appeal for grant of anticipatory bail, as she apprehends her arrest in connection with Crime No.06/2020, registered at Police Station: Scheduled Caste Welfare (SC/ST Police Station) Baikunthpur, District- Korla (C.G.) for offence punishable under Sections 294, 506, 323, 452 read with 34, of the Indian Penal Code and Section 3 (1) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Appellant is working with a cloth shop by the name of City Life Collection. As per the applicant's version, the complainant purchased some clothes/garments from her and in connection with said transaction, a dispute occurred whereafter the complainant lodged a report on 24-1-2020 which was inquired and closed vide Annexure A-7. Now, the present complaint has been lodged on 02-03-2020 alleging that in the midnight of 01-03-2020, applicant alongwith three of her friends committed house trespass, abused filthily in the name of complainant's caste, criminally intimidated and assaulted her by saying as to why she has lodged the earlier complaint.
4. Learned State counsel and counsel for the Objector would oppose the bail application, particularly with reference to Bar under Section 18 of the Act, 1989. According to them, the appellant is habitual in committing house trespass and abusing the complainant in the name of her caste. Learned State counsel would further submit that applicant has two previous antecedents.
5. Having heard learned counsel for the parties, I am inclined to release the appellant on anticipatory bail for the reason that for Offence Section 3 (1) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 the Supreme Court in the matter of **Hitesh Verma v. State of Uttarakhand and Another**¹ has held that when the incident has occurred inside the house, the offence may not be prima facie made out. Relying on the said judgment of the Supreme Court, this Court in CRA No.845 of 2020 has allowed the

1. AIR 2020 SC 5584

criminal appeal to an applicant who was accused of committing offence under the Act 1989. Apart from the offence under the Act 1989, the other offences are triable by Judicial Magistrate First Class (JMFC).

6. On perusal of the material available in the case diary, it appears, while considering the prayer for grant of bail, the Court below has committed serious error of jurisdiction, inasmuch as, it should have objectively considered the said prayer by having a close look on the material against the accused. While exercising judicial discretion for grant of bail, the trial Court is not expected to conduct an exercise in formality but the same should reflect from the material and further, cogent reasons must be assigned while rejecting the bail application.
7. The appellant is a lady and there appears some dispute concerning purchase of clothes/garments, therefore, considering all relevant aspect of the matter, I am inclined to release the appellant on anticipatory bail.
8. Accordingly, the appeal is allowed and the impugned order is set aside. It is directed that in the event of arrest of the applicant, she shall be released on anticipatory bail on his executing a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

- she shall make herself available for interrogation by a police officer as and when required;

- she 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 her from disclosing such facts to the Court or to any police officer.
- she shall not influence the witnesses during pendency of the trial.

SD/-

(Prashant Kumar Mishra)
Judge

Amardeep