

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 992 of 2021

Ghanshyam Prasad Chandra, S/o Late Shri Dorilal Chandra, Aged About 61 Years Caste Chandranahu, R/o. Village Nandeli, Police Station and Tahsil Jaijaipur, District Janjgir - Champa Chhattisgarh.,

---- Appellant

Versus

State Of Chhattisgarh, Through - The District Magistrate, Janjgir, (Police Station Jaijaipur), District Janjgir - Champa Chhattisgarh.,

---- Respondent

CRA No. 1014 of 2021

Khemplal Chandra S/o Thakur Lal Chandra Aged About 60 Years Caste Chandranahu, R/o Village Nandeli, P. S. and Tehsil Jaijaipur, District Janjgir Champa Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh Through P. S. Jaijaipur, District Janjgir Champa Chhattisgarh aq

---- Respondent

CRA No. 1065 of 2021

Shyamlal Chandra S/o Bacchulal Chandra Aged About 72 Years R/o Village Kachanda, Police Station and Tehsil Jaijaipur, District Janjgir Champa Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh Through Police Station Jaijaipur, District Janjgir Champa Chhattisgarh

---- Respondent

CRA No. 1010 of 2021

- Tankor Narayan Chandra S/o Late Shri Bharat Lal Chandra Aged About 45 Years R/o Village Nandeli (Jaijaipur) P. S. And Tahsil Jaijaipur District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, P. S. Jaijaipur District Janjgir Champa Chhattisgarh

---- Respondent

For Appellants	: Mr. Manoj Paranjpe, Mr. Yogesh Chandra, Mr. Uttam Pandey, Mr. Rahil Arun Kochar, and Mr. Ravindra Sharma, Advocates
For Respondent	: Mr. Ghanshyam Patel, Govt. Advocate
For Objector	: Mr. Anchal Kumar Matre, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

08.11.2021

Since all the aforementioned four appeals arise out of the same crime number i.e. 121/2021 registered at Police Station Jaijaipur, District Janjgir Champa for the offences punishable under Sections 147,148,149,294,447,427,452,506 IPC and section 3(i) (द) (घ) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, they are decided by this common order.

2. Case of the prosecution in brief is that on 02.08.2021 the appellants and other accused persons entered the house of the complainant, started abusing filthily in the name of caste on the

pretext that the complainant party had constructed the houses in their land and that if they did not come out of the houses, they would get the same dismantled with the help of tractor. They are also alleged to have pulled out the female members of the houses and thus put them to humiliation.

3. Learned counsel for the accused/appellants placing reliance on the decision of the Apex Court in the matter of **Hitesh Verma v. State of Uttarakhand and Another AIR 2020 SC 5584** and **Swaran Singh and Others v. State through Standing Counsel and Another 2008 (8) SCC 435**, submits that un-disputedly, the incident had occurred within the four walls of the house and therefore, the ingredients of the Special Act referred to above are not attracted. They further submit that there is nothing to show that the place where the incident took place was a public place or it was within the public view. Referring to certain orders passed by the Revenue Authorities, learned counsel for the appellants submit that it is a case having civil flavour but unfortunately it has been given the colour of a criminal case.

4. On the other hand, learned State counsel as also the counsel appearing for the objector referring to the FIR and the bar created under Section 18 of the Special Act, opposes the prayer for anticipatory bail. They submit that the rejection of the anticipatory bail applications by the Court below is fully justified.

5. Heard counsel for the parties and perused the documents.

6. It is settled legal position that no absolute bar to grant of anticipatory bail is created under Section 18 of the Special Act. If on the face of allegation contained in the FIR, an offence under Act 1989 is, *prima-facie* not attracted, the Court has power to consider prayer for grant of anticipatory bail. A *prima-facie* flashback of the documents suggests some substance in the argument of counsel for the accused/appellants that it is the civil proceedings which prompted the complainant party to take recourse to lodgment of the FIR.

7. Having given a thoughtful consideration to the facts of the present case, it appears that the incident had taken place inside the house of complainant. It has to be seen at the time of framing of charge as to whether the offence under the Act, would be made out or not. However, in view of the decisions referred to above, *prima-facie* the said offence cannot be made out. Even otherwise, except the offence under the Special Act, all other offences levelled against the accused persons are bailable ones.

8. Accordingly, all the aforesaid appeals are **allowed** and the impugned orders are set-aside. The appellants are directed to be released on anticipatory bail on their furnishing a personal bond in the sum of Rs.50,000/- with one surety for the like amount each to the satisfaction of the Arresting Officer, with the following conditions:

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

(ii) they 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; and

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

9. Certified copy as per rules.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Jyotishi/Sanotsh