

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1122 of 2021**

Suresh Kumar S/o Late Amar Lal Madhani Aged About 55 Years
R/o Sadar Bazar, Bhatapara, Police Station Bhatapara City,
District Balodabazar Chhattisgarh. **---- Appellant**

Versus

State Of Chhattisgarh Through SHO Police Station Bhatapara
Village, Baloda Bazar District Balodabazar, Chhattisgarh.

---- Respondent

For Appellant	: Mr. Rohit Sharma, Advocate.
For Respondent /State	:Mr. Arjit Tiwari, Panel Lawyer.

Order on Board**By****Hon'ble Shri Justice Goutam Bhaduri****13/12/2021**

1. The present appeal is arising out of order dated 7-9-2021 passed by the Special Judge (Atrocities), Baloda Bazar, in Bail Petition No.749/2021.
2. The appellant has preferred this appeal under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act, 1989') for grant of anticipatory bail under Section 438 of the Cr.P.C. as he apprehends his arrest in connection with Crime No.409/2021, registered at Police Station Bhatapara, Baloda Bazar, District Balodabazar (CG) for offence punishable under Sections 294, 506 IPC, Section 3(1)(r) and 3(2)(va) of the Scheduled Castes

and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. As per the prosecution case, the appellant has certain property bearing khasra No.182/1, 182/4, 182/5, 182/6, 182/8 which was purchased in part and his name was initially recorded. Subsequently, when the appellant wanted the copy of the revenue records, in the khasra number name was not recorded, therefore he approached the patwari complainant Fani Bhushan Bage. It is alleged that the patwari demanded an amount of Rs.50,000/- and for that the appellant made a complaint to the Collector. Thereafter, the report has been made wherein it is alleged that the appellant has abused in the name of the caste to intimidate the complainant.
4. Learned counsel for the appellant would submit that the appellant purchased the property and his name was not recorded in the revenue records which was required to be corrected as such he approached to the patwari. Patwari demanded bribe of Rs.50,000/- for which complaint was made to the SDO. He referred to the enquiry conducted by the SDO and would submit that prior to the complaint the date of incident which is alleged to be of 27/08/2021 the said complaint of bribe was made which was under enquiry and as a counter blast to it the report was made. He read out the statement of the appellant and complainant the patwari and would submit that the offence can only be registered when there is a prior *mens rea* which is existing in the mind of the appellant to intimidate a particular

person being a scheduled caste and scheduled tribe and the appellant should have known this fact before hand. He would submit that in order to dilute the allegation of bribe the false allegations have been made, therefore, the appellant may be enlarged on bail.

5. Per contra, learned counsel for the State read out the statement of the complainant and would submit that the complainant was abused in the name of the caste, thereby the offence is committed and the bar under Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act is created, therefore the appellant is not entitled for grant of anticipatory bail.
6. Heard learned counsel for the parties.
7. Perused the documents filed by the appellant. Perusal of the documents filed by the appellant would show that the complaint was made by the appellant about demand of bribe by the complainant/patwari for which the enquiry was conducted. In such enquiry, the statement was also recorded of complainant as also that of patwari. The appellant alleged that Rs.50,000/- was demanded as a bribe whereas the patwari/complainant stated Rs.50,000/- was kept in his table which he refused. The allegation and the background of this case therefore would show that because of the fact certain revenue entries were sought to be corrected there has been certain dispute and the allegation of the appellant that a bribe was demanded which was not paid as an off-shoot this complaint was made cannot be shelved

completely subject to just exception. Taking into the facts the way the incident happened, it appears that prima facie *mens rea* as per object of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 did not exist so as to attract the bar of section 18 to grant of anticipatory bail. Taking into case diary and the prior statement about the allegation of bribe, I am inclined to extend the benefit of Section 438 of the Cr.P.C. to the appellant.

8. Accordingly, the appeal is allowed and the impugned order is set-aside.
9. The appellant is directed to be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the Arresting Officer with the following conditions:
 - (i) he shall make himself available for interrogation by a police officer as and when required;
 - (ii) he 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.
 - (iii) he shall not influence the witnesses during pendency of the trial.
10. Certified copy as per rules.

Sd/-

(Goutam Bhaduri)
Judge