

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1008 of 2021**

1. Devnarayan Sahu, S/o Late Ramnaresh Sahu, Aged About 52 Years, Occupation Agriculture,
2. Anuj Kumar Sahu, S/o Devnarayan Sahu, Aged About 26 Years, Occupation Agriculture,
3. Sanju Ram Sahu, S/o Devnarayan Sahu, Aged About 21 Years, Occupation Student (B.S.C. Last Year),

All are R/o Village Sonpur, Police Station Surajpur, Tehsil Ramanujnagar, District Surajpur Chhattisgarh.

----Appellants**Versus**

- State of Chhattisgarh Through Station House Officer, Schedule Cast And Schedule Tribes Welfare Police Station Surajpur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Respondent

For Appellants	:	Mr. Shakti Raj Sinha, Adv.
For State	:	Mr. Wasim Miyan, P.L.

Hon'ble Smt Justice Rajani Dubey**Order on Board****22.11.2021**

1. Complainant/victim is present through virtual hearing from DLSA, Surajpur, (C.G.). On being asked, she raised her objection regarding grant of bail to the appellants.
2. This appeal is directed against order dated 24.08.2021 passed by learned Special Judge (Atrocities), Surajpur, District- Surajpur (C.G.) under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act for grant of anticipatory bail.
3. The appellants are apprehending their arrest in connection with Crime No. 12/2021, registered at Police Station –Scheduled Castes & Scheduled Tribes Welfare Police Station- Surajpur, District- Surajpur (C.G.) for the offence punishable under

Sections 451, 354, 323/34 of the IPC and Section 3(1)(w)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. As per the prosecution case, the allegation against the appellants is that on 10.08.2021 at about 10:00 P.M., appellant No. 3 forcefully entered the house of the prosecutrix and tried to outrage her modesty and on raising alarm, appellant No. 3 left the spot. Thereafter, appellant No. 3 came there with appellants No. 1 & 2 and they assaulted and abused her in filthy language.
5. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in the case. He further submits that there is no direct evidence against the appellants regarding commission of offence. It is next contended that prosecutrix is a major lady and there is no antecedent against the appellants, therefore, appellants may be granted anticipatory bail.
6. On the other hand, learned counsel for the state opposes the anticipatory bail application of the appellants.
7. I have heard learned counsel for the parties and perused the record.
8. The Co-ordinate Bench of this Court, in the matter of **Pavas Sharma Vs. State of Chhattisgarh and another (CRA No. 806/2020, order dated 22.01.2021)**, has elaborately dealt with the issue pertaining to offence under the Act, 1989 and finds that merely because offence under Section 3(2)(V)(a) of the Act, 1989 was registered against the applicant, learned court below rejected the application holding it to be not maintainable in view of the provisions contained under Section 18 of the Act of 1989, without taking into consideration the law laid down by the Supreme Court in the case of **Prathvi Raj Chouhan Vs. Union of India and Others**¹. Even though, offence under the Act of 1989 is registered, where application for grant of anticipatory bail

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is filed, the Court is required to apply its mind to the relevant provisions of law and considerations as specified by the Supreme Court in the case of **Prathvi** (supra) and if material on record leads to satisfaction that the complaint does not make out a prima facie case, for applicability of the provisions of the Act of 1989, the bar created under Section 18 of the Act of 1989 shall not apply and in appropriate cases of exceptional nature, benefit of anticipatory bail could be admitted to the applicant. The learned Court below committed patent illegality in mechanically rejecting the bail application. Order of rejection, therefore, cannot be sustained in law and, therefore, set aside.

9. After hearing counsel for the parties and considering the facts and circumstances of the case, in particular the prosecutrix is a major lady and in view of the order passed by this Court in **Pavas** (supra), this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the appellants. Accordingly, the appeal is allowed. It is directed that in the event of arrest of the appellants in connection with aforesaid crime number, they shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/-, each with one surety for the like sum to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, with the following terms and conditions:

- (i) that the appellants shall make themselves available for interrogation/medical test etc. before the concerned investigating officer as and when required;
- (ii) that the appellants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the appellants shall not act in any manner which will be

prejudicial to fair and expeditious trial; and

(iv) that the appellants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Rajani Dubey)
Judge

Ruchi/-