

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1022 of 2021

Ashok Tiwari @ Baba Pandit S/o Late Jagarnath Tiwari Aged About
60 Years Residence Of Jarhagarh Ambikapur, P.S. And Tahsil -
Ambikapur, District - Surguja (Chhattisgarh), District : Surguja
(Ambikapur), Chhattisgarh --- **Appellant**

Versus

State of Chhattisgarh through Police Station - Ambikapur, District :
Surguja (Ambikapur), Chhattisgarh --- **Respondent**

For the appellant : Mr. Vineet Kumar Pandey, Advocate.
For the State : Mr. Raghavendra Verma, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07.12.2021

1. Heard.
2. The challenge in this appeal is to the order dated 01.09.2021 passed by the learned Special Judge (Atrocities), Surguja, Ambikapur, in Crime No.344/2021 registered at Police Station Ambikapur, Distt. Surguja for the offence punishable under sections 341, 294, 506, 323, 34 of IPC and section 3(1)(Da)(Dha) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the anticipatory bail application moved by the appellant has been rejected.
3. As per the prosecution case, on 28.03.2021 at about 1.30 p.m., complainant Pratap Singh along with Vishal Pathak was going to the house of Vishal Pathak from Bilaspur Chowk. On the way at Mahamaya Road when they saw that victims Lappu Kashyap and Rochak Gupta were assaulted and abused by the present Appellant Ashok Tiwari alias Baba Pandit and his son Ansh Pandit, the

complainant and Vishal Pathak tried to intervene and pacify the situation. At that time the appellant abused the complainant and Vishal Pathak in the name of their caste and uttered that they being Adiwashis, are trying to intervene the matter and thereafter abused them and assaulted, thereby the report has been made.

4. Learned counsel for the appellant submits that the appellant is aged about 60 years and there was no personal animosity with the complainant. However, when some quarrel was going-on and the complainant tried to intervene, the alleged incident happened, therefore, there was no mens-rea in this case.
5. Per contra, learned State Counsel opposes the bail application.
6. The complainant, who was heard in Video Conferencing through DLSA, Ambikapur, has also opposed the bail application.
7. Perused the statements of Pratap Singh and Rochak Gupta. Looking to the back ground of this case, it appears that when certain quarrel was going on between the appellant and others and on the way when the complainant saw and tried to intervene and pacify the situation, the alleged incident happened. Taking into consideration such fact, the over all intention and the age of the applicant who is stated to be 60 years, I am inclined to enlarge the applicant on anticipatory bail.
8. In the result, the appeal is allowed and the order dated 01.09.2021 passed by the learned court below is set aside. Accordingly, I.A.No.1 also stands allowed.
9. it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;

- (ii) that 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/her from disclosing such facts to the Court or any police officer;
- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

**GOUTAM BHADURI
JUDGE**

Rao