

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1138 of 2021**

- Kripashankar Jaiswal S/o Rajendra Prasad Jaiswal, aged about 34 years, R/o village Surangpani, Tahsil Chhura, Thana Piparchhedi District Gariyaband (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, Through : The Station House Officer, Police Station AJAK, Gariyaband, District Gariyaband (C.G.)

---- Respondent

For Appellant	:	Mr. K.P.S. Gandhi, Advocate
For Respondent	:	Mr. Ayaz Naved, G.A.
For complainant	:	Mr. Pawan Kumar Kashyap, Adv.

Hon'ble Smt Justice Rajani Dubey**Order on Board****24/11/2021**

1. The appellant has preferred this criminal appeal under Section 14(A)(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.04/2021, registered at Police Station - AJAK, Gariyaband, District Gariyaband (C.G.) for the offence punishable under Sections 294, 506, 384 IPC and Section 3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity), Act, 1989 (for short 'the Act, 1989).
2. The allegation against the present appellant is that on 16.06.2021 he stopped the construction work of road which was being carried out in village Medkidabari saying that the same will be started if the Sarpanch comes. When Sarpanch came to the spot, the appellant

started quarreling with her in the name of mother and father and also uttered casteism word. Based on this FIR has been registered against the applicant.

3. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the case because the fact of corruption of complainant were exposed by him through newspaper and other means. He further submits that appellant never uttered caste remark against the complainant. Therefore, the present applicant may be granted anticipatory bail.
4. On the other hand, learned counsel for the State opposed the bail application.
5. Learned counsel for complainant submits that bail may be granted to the appellant.
6. I have heard learned counsel for the parties and perused the record.
7. 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 is filed, the Court is required to apply its mind to the relevant provisions of law and

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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.

8. After hearing counsel for the parties and considering the facts and circumstances of the case, 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 appellant. Accordingly, the appeal is allowed. It is directed that in the event of arrest of the appellant in connection with aforesaid crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- 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 appellant shall make himself available for interrogation before the concerned investigating officer as and when required;

- (ii) that the appellant 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 appellant shall not act in any manner which will be prejudicial to fair and expeditious trial; and

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

Sd/-

(Rajani Dubey)

Judge

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