

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 989 of 2020**

- Neeraj Tiwari S/o Late Chhedilal Aged About 38 Years R/o Village Tenduwa, Police Station Sheorinarayan, District Jangir-Champa, Chhattisgarh.
- Suraj Tiwari S/o Late Chhedilal Aged About 36 Years R/o Village Tenduwa, Police Station Sheorinarayan, District Jangir-Champa, Chhattisgarh.

---- Appellants**Versus**

- State Of Chhattisgarh Through District Magistrate, Janjgir-Champa, District Janjgir-Champa, Chhattisgarh.
- Station House Officer Police Station - Ajak, District Janjgir-Champa, Chhattisgarh.
- Govind Satnami S/o Heeraram Satnami Aged About 40 Years R/o Ward No. 14, Kharoud, Police Station Seorinarayan, District Janjgir-Champa, Chhattisgarh.

---- Respondents

For Appellants	-	Shri Amarnath Pandey, Advocate.
For Respondent	-	Shri Ayaz Naved, Government Advocate.
For Objector	-	Shri Vivek Singhal, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

17/03/2021

1. The appellants have preferred the instant appeal challenging the order dated 09-11-2020 passed by the Special Judge, Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 whereby the application preferred by the appellants for grant of anticipatory bail under Section 438 of the Cr.P.C. has been rejected.

2. The appellants apprehend their arrest in connection with Crime No.03/2020, registered at Police Station: Ajak, District: Janjgir-Champa (C.G.) for the offence punishable under Sections 294, 506, 323 of the Indian Penal Code and Sections 3 (2-5) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. The complainant is an employee of one Rahul Sultaniya with whom the appellants have land dispute. When the complainant alongwith Durgesh Sahu and Dheerendra Yadav were working in the agricultural field of Rahul Sultaniya, the present appellants reached the agricultural field and tried to persuade the complainant and his colleagues for stopping the work of digging the field for installing pillars. When the workers continued their work, the appellants allegedly filthily abused them and assaulted causing simple injuries over left eye and chest. It is also alleged that the filthily abused were in the name of his caste.
4. Admittedly, the complainant and the appellants are not previously acquainted with each other. They had no previous interaction of any kind on any issues and thus the appellants are not aware that the complainant belongs to scheduled caste community.
5. In the above circumstances, when the appellants are not aware as to the caste status of the complainant, it is prima facie suspicious that they will abuse the complainant in the name of his caste. Thus, the bar under Section 18 would not work adversely against the applicant.
6. Learned State counsel and learned counsel for the objector would oppose the prayer on submission that there are criminal antecedents of the appellants. However, on being specifically inquired as to the nature of previous antecedents, learned State counsel would fairly submit that those cases do not involve commission of any heinous crime.

7. On perusal of the material available in the case diary, it appears, while considering the prayer for grant of bail, the Court below has committed serious error of jurisdiction, inasmuch as, it should have objectively considered the said prayer by having a close look on the material against the accused. While exercising judicial discretion for grant of bail, the trial Court is not expected to conduct an exercise in formality but the same should reflect from the material and further, cogent reasons must be assigned while rejecting the bail application.
8. Considering the entire facts situation of the case, I am inclined to release the appellants on anticipatory bail.
9. Accordingly, the present appeal is allowed and the impugned order is set-aside. The appellants are directed to be released on anticipatory bail on each of them furnishing a personal bond for a sum of Rs.50,000/- with one surety for the like amount to the satisfaction of the Arresting Officer with the following conditions:
- they shall make themselves available for interrogation by a police officer as and when required;
 - 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
 - they shall not influence the witnesses during pendency of the trial.

SD/-
(Prashant Kumar Mishra)
Judges

Amardeep