

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 78 of 2021**

- Rahul Verma, aged 29 years, S/o Shri Ramadhar Verma, R/o Sumit Nagar, Krishna Nagar, behind Om Jewelers, Tah. & P.S. Tikrapara, District Raipur (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, Through : The P.S. - Civil Lines, District Raipur (C.G.)

---- Respondent

For Appellant	:	Mr. Syed Ishhadil Ali, Advocate
For Respondent	:	Mr. Devesh Verma, G.A.

Hon'ble Smt Justice Rajani Dubey**Order on Board****25/03/2021**

1. The appellant has preferred this criminal appeal under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.24/2020 (wrongly mentioned in impugned order), registered at Police Station - Civil Lines, District Raipur (C.G.) for the offence punishable under Sections 376, 417 IPC and Section 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity), Act, 1989 (for short 'the Act 1989') (as amended Act No.1/2016).
2. The allegation against the present appellant, according to FIR is that, the complainant/prosecutrix and the present appellant got acquainted in the year 2016. The appellant gave proposal of marriage to her. From

10.02.2017 and on several occasions the appellant came to her house and committed sexual intercourse with her on the pretext of marriage. It has been further alleged that the appellant took personal loan of Rs.1,02,000/- and also financed one activa vehicle and mobile phone in her name from Bajaj Finance Company and fled away.

3. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in the case. He further submits that the appellant and complainant/prosecutrix is in love with each other and he got financed Activa vehicle, a mobile phone and also took personal loan in the name of complainant/prosecutrix, installments of which were being paid by him, but due to lockdown the appellant could not pay the installments. Thereafter, the complainant/prosecutrix threatened the appellant that she will falsely implicate him in the case. He also submits that the offence under the Act 1989 has been added only on the ground that the complainant belong to scheduled category. He also submits that even if the entire story, as stated in the FIR and the case diary statement, is taken as it is, there is absolutely no element that the appellant acted in such manner because she belongs to the reserved category. In support of his submission, learned counsel placed reliance on the decision of this Court in the matter of **Pavas Sharma Vs. State of Chhattisgarh and another (CRA No. 806/2020, order dated 22.01.2021).**
4. On the other hand, learned counsel for the State opposed the bail application.
5. The complainant is present before this Court and submits that anticipatory bail may not be granted to the

appellant.

6. I have heard learned counsel for the parties and perused the case diary.
7. The Co-ordinate Bench of this Court, in the matter of **Pavas (supra)**, 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 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

¹ (2020) 4 SCC 727

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.25,000/- 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/medical examination 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