



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 604 of 2022

- Jawed Khan S/o Abdul Majid Khan, Aged About 32 Years R/o Village - Pondidalha, P.S. Akaltara, District - Janjgir-Champa (C.G.)

---- Appellant.

Versus

- State Of Chhattisgarh Through -S.H.O. P.S. Ajak Janjgir, District - Janjgir-Champa (C.G.)

--- Respondent.

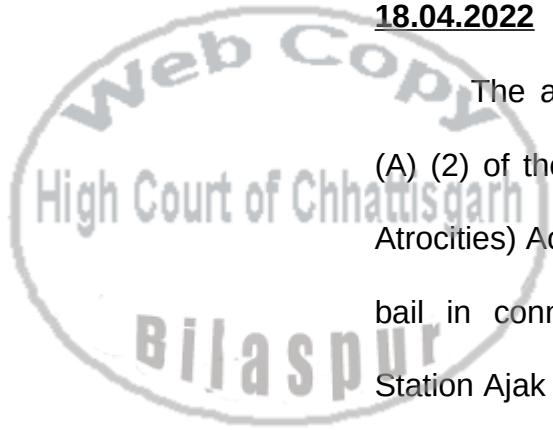
For Appellant	:	Mr. Ravindra Sharma, Adv.
For Respondent/State	:	Mr. Alok Nigam, GA.
For objector	:	Mr. Amarnath Pandey, Adv.

Hon'ble Shri Justice Deepak Kumar Tiwari
Order On Board

18.04.2022

The accused/appellant has filed this appeal under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short "the SC/ST Act") for grant of anticipatory bail in connection with Crime No.0005/2022 registered at Police Station Ajak Janjgir, District Janjgir-Champa for the offence punishable under Sections 294, 323 & 506 IPC and Sections 3 (1) (r), 3 (1) (s) & 3 (2) (va) of the SC/ST Act.

2. As per the prosecution case, the victim who is posted as Panchayat Secretary has lodged an FIR on 15.03.2022 against the appellant who is posted as Up-Srapanch in Village Pndidalha that on 22.01.2022 a Panchayat Meeting was held in which present appellant has made certain corrections in proposal register of Panchayat and when the complainant objected this act, the appellant abused him in filthy language. Thereafter, at about 2 PM the appellant again came there and abused him in the name of his caste, grab his collar and also threatened to kill him in presence of other members. Thereafter, the

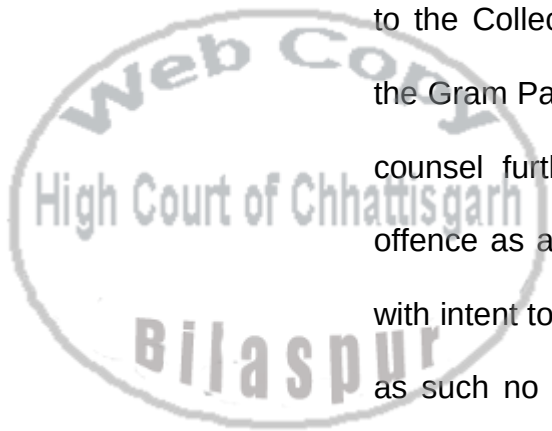




offence has been registered against the appellant under the aforesaid sections.

3. Learned counsel for the appellant submits that appellant is innocent and has been falsely implicated in the case. He submits that victim has lodged FIR only to create pressure upon the appellant to withdraw the complaints lodged by appellant regarding embezzlement of Government fund by Sarpanch and victim/Panchayat Secretary. Learned counsel has filed certain documents in support of his contention and submits that certain withdrawals have been made after the death of late Budhwara Bai. He further submits that CEO of Janpad Panchayat Akalatara vide letter dated 06.10.2021 addressed to the Collector, District Janjgir-Champa found certain negligence by the Gram Panchayat and recommended for necessary action. Learned counsel further submits that the appellant has not committed any offence as alleged against him. He has not made any filthy comment with intent to humiliate the complainant in public view. He submits that as such no incident took place, the witness Saroj Kumar and Vinod Kumar have given the representation to the Superintendent of Police, District Janjgir-Champa in support of the appellant. He also submits that FIR has been lodged with delay of almost two months and no explanation has been given in this regard. Therefore, considering all these aspects, the appellant may be granted anticipatory bail.

4. Per contra, learned State counsel and counsel for the objector opposes the prayer for bail. Learned counsel for the objector puts forth his vehement opposition to the prayer for bail and submits that there is bar under Section 18 and 18-A of the SC/ST Act. He relying on the judgment passed in **Swaran Singh and Others Vs. State through Standing Counsel** reported in **(2008) 8 SCC 435** in which it was held





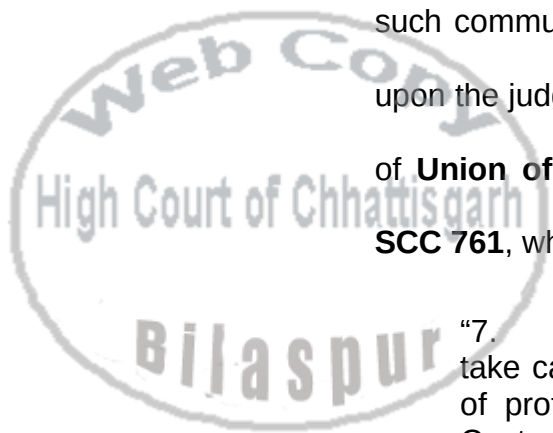
that calling a member of Scheduled Caste “chamar” with intent to insult or humiliate him in a place within public view is certainly an offence under Section 3(1) (x). Learned counsel for the objector further submits that the witnesses who have supported the case of the appellant have been pressurized by the appellant so they sent letter to concerned Superintendent of Police.

Opposing the said submission, learned counsel for the appellant submits that this is not the case where the incident took place on the ground of caste based atrocities, as the appellant has made certain allegations about the work of the complainant and the Gram Panchayat and as the complainant happened to be member of such community he has taken the benefit of such category. He relies upon the judgment passed by Hon'ble the Supreme Court in the matter of **Union of India Vs. State of Maharashtra and others, (2020) 4 SCC 761**, wherein, it has been held thus in para 7.

“7. Section 18 of the 1989 Act has been enacted to take care of an inherent deterrence and to instil a sense of protection amongst the members of the Scheduled Castes and Scheduled Tribes. It is submitted that any dilution of the same would shake the very objective of the mechanism to prevent the offences of atrocities. The directions issued would cause a miscarriage of justice even in deserving cases. With a view to object apprehended misuse of the law, no such direction can be issued. In case there is no prima facie case made out under the 1989 Act, anticipatory bail can be granted. The same was granted in the case in question also.”

5. Having heard learned counsel for the parties and taking into consideration all the aspects including the nature of dispute, this Court is of the considered opinion that when the offence of SC/ST appears to be misuse of law, the Court has power to grant anticipatory bail, therefore, the accused/appellant can be granted anticipatory bail.

6. Accordingly, the appeal is **allowed** and it is directed that in the





event of arrest of the appellant, 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 arresting Officer, he shall be released on bail on the following conditions:-

- (a) he shall make himself available for interrogation by a police officer as and when required,
- (b) 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 from disclosing such fact to the Court or to any police officer,
- (c) he shall not act in any manner which will be prejudicial to fair and expeditious trial,
- (d) he shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial,
- (e) he shall not involve himself in any offence of similar nature in future.



Sd/-
(Deepak Kumar Tiwari)
Judge