



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 215 of 2023**

1. Gudan @ Mohd. Shamim Rahmani S/o Abdul Jaliz Rahmani, Aged About 45 Years, Occupation Business, R/o Village Kusmi, Police Station Kusmi, District Balrampur-Ramanujganj (C.G.)
2. Abdulla Ansari S/o Sainul Ansari, Aged About 40 Years, Occupation Business, R/o Village Jawaharnagar, Police Station Korondha, Tahsil Kusmi, District Balrampur-Ramanujganj (C.G.)
3. Jitendra S/o Mahesh Uraon, Aged About 45 Years, R/o Village Jawaharnagar, Police Station Korondha, Tahsil Kusmi, District Balrampur-Ramanujganj (C.G.)

---- Appellants

Versus

- State Of Chhattisgarh Through the Station House Officer, Police Station Adim Jati Kalyan (A.J.K.) Balrampur, District Balrampur-Ramanujganj (C.G.)

---- RespondentNon-applicant

For Appellants:- Mr. Jitendra Shrivastava, Advocate.

For the State/Respondent : Ms. Madhunisha Singh, Deputy Advocate General.

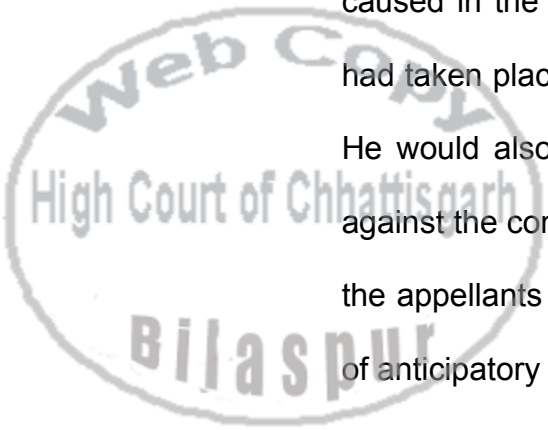
Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****24-03-2023**

1. The instant criminal appeal is preferred under Section 14-A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, 'the SC/ST Act') against the order dated 23-12-2022 passed in B.A.No.583/2022 by the Special Judge (SC/ST Act), Balrampur, at Ramanujganj (C.G.) whereby the application filed by the appellants under Section 438 of the Cr.P.C. in connection with Crime No.19/2022, registered at Police Station Adim Jati Kalyan (A.J.K.) Balrampur, District – Balrampur-Ramanujganj (C.G.) for offence punishable under Sections 294, 506, 323, 325, 34 of the IPC and Section 3(1)(द)(घ) of the SC/ST Act, has been rejected.
2. The prosecution story, in brief, is that on 11-12-2022 there was some quarrel between the appellants and the complainant and both the parties sustained injuries. A written complaint in this regard was lodged by appellant No.2 Abdulla Ansari on 07-12-2022 before the Station House Officer of Police



Station Korondha, Tahsil Kusami, District Balrampur-Ramanujanj (C.G.). On 12-12-2022 injured Prakash Uraon was examined by the doctor and he found fracture of little finger of right hand and one abrasion and contusion. On 15-12-2022 the complainant Prakash Uraon lodged the FIR against the present appellants. Consequently, police registered offence as stated above.

3. Learned counsel for the appellants would submit that there is allegation against the present appellants that they used word 'Uraon' which is the caste of the complainant and on account of that reason only, the FIR has been registered. He would further submit that offence punishable under Section 3(1) (द)(ध) of the SC/ST Act is not made out against the appellants and the delay caused in the registration of the FIR has not been explained as the incident had taken place on 11-12-2022, whereas, the FIR was lodged on 15-12-2022. He would also submit that a written complaint was registered by the police against the complainant on 07-12-2022 where the complainant had threatened the appellants to implicate in a false case. Therefore, he would pray for grant of anticipatory bail.
4. On the other hand, learned counsel for the State would oppose the appeal filed by the appellants. Mr. Adil Minhaj would submit that it is not in dispute that the complainant belongs to Scheduled Tribe category. The appellants used filthy language including caste of the complainant 'Uraon' and same is evident from the contents of the FIR and there is fracture of little finger of right hand of the complainant, therefore, they are not entitled for grant of anticipatory bail as there is bar contemplated under Section 18 of the SC/ST Act.
5. I have heard learned counsel for the parties and perused the case diary.
6. From the case diary, it appears that there was some quarrel between the appellants and the complainant on 11-12-2022. The complainant sustained some injuries, he was medically examined on 12-12-2022, and thereafter on





15-12-2022 a report was lodged and there is no explanation with regard to delay, further considering the fact that the appellants have used surname of the complainant - 'Uraon' which cannot be said to be humiliating or insulting and further considering the fact that one of the appellants, i.e., appellant No.3 - Jitendra S/o Mahesh Uraon is a member of Scheduled Tribe category, therefore, the offence punishable under Section 3(1)(द)(घ) of the SC/ST Act would not attract against him, considering these aspects of the matter, I am inclined to allow this criminal appeal. Consequently, this criminal appeal is **allowed** and order passed by the learned Court below dated 23-12-2022 is hereby set-aside. The application filed by the appellants under Section 438 of the Cr.P.C. is allowed.

7. It is directed that in the event, each of the appellants executing a personal bond for a sum of Rs.50,000/- to the satisfaction of the concerned arresting officer, they shall be released on bail, on following conditions:-

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

The observation made hereinabove is for the purpose of deciding this appeal only, the learned trial Court shall decide the case on its own merits.

Sd/-

(Rakesh Mohan Pandey)
Judge