



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 603 of 2023

- Sandeep Kumar Yadav, S/o Gendram Yadav, Aged About 25 Years R/o Village Khudiyadih, Police Station Bilha, District Bilaspur Chhattisgarh. ---- **Appellant**

Versus

- State of Chhattisgarh, Through - The Station House Officer, Police Station Bilha, District Bilaspur Chhattisgarh.

---- **Respondent**

For Appellant : Mr. Deepak Kumar Yadav, Advocate

For Respondent/State : Mr. Lalit Jangde, Deputy Government Advocate

For Complainant : None

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board

04.05.2023

1. This appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act, 1989') has been filed against the order dated 06.03.2023 passed by Special Judge (Atrocities) Bilaspur, District Bilaspur rejecting the application under Section 438 of the Cr.P.C. in connection with the Crime No. 197/2022, registered at Police Station – Bilha for the offence punishable under Sections 147, 148, 149, 294, 506, 323, 324, 325, 458 of the IPC and Section 3(2)(v)(a) of the Act, 1989.

2. There is no representation on behalf of the complainant



even in the second round, though Mr. Ravi Kumar Banjare, Advocate has filed power on behalf of complainant.

3. Prosecution case, in brief, is that complainant - Komal Shastri lodged an FIR on 2.8.2022 at about 22:15 hours at Police Station Bilha alleging that on the said date at about 8:00 p.m., when he and his nephew Sonu Shastri, Dhamendra Shastri, Mohit, Komal, Rajendra, Santosh and his other family members were sitting near his house, at that time, Bholi, Godda and Khelawan Yadav and their family members came there and also brought liquor with them. Thereafter, Manglu Yadav raised a quarrel on the ground that the money has not been returned and a dispute started. Bholi, Godda, Kilawan Yadav, Manglu, Gendram (appellant), Totwa and their other family members altogether started beating Dharmendra Shastri, Mohitram, Chanda Bai, Sonu, Komal, Rajendra and Santosh with club and tangia and caused injury to them and ultimately, they ran away. The complainant informed the Police about the incident and lodged an FIR, based upon which, an offence under Section 147, 148, 294, 323, 506 of the IPC was registered. On further investigation, Sections 324, 458 and 325 of the IPC and Section 3(2)(va) of the Atrocities Act were also added.
4. Learned counsel for the appellant would submit that the appellant is innocent and has falsely been implicated in the case. The complainant party is the aggressor. He submits that Ramnaresh @ Mangluram Yadav (co-accused) has also lodged FIR No.198/2022 at about 7:30 p.m. at





Police Station Bilha, against the complainant party alleging that when the uncle of Ramnaresh Yadav namely Devchand Yadav had gone near the house of Dharmendra Shastri demanding liquor from Sonu Shastri, he started demanding money from him, on which, Devchand Yadav told him that he has already given money to his friend and on account of the said money dispute, Dharmendra Shastri started beating Devchand Yadav. When the said incident was informed by one Gaukaran, the accused persons reached there to rescue Devchand Yadav and in that scuffle, Sonu Shastri and others caused injuries to Ramnaresh Yadav. Sonu Shastri blew a club on the head of Ramnaresh Yadav, on account of which, he sustained injury on his head. Rajendra Shastri also assaulted Ramprakash, Ramnaresh Yadav, Boondh Ram and Khilawan Yadav. He would further submit that the complainant party has been released on bail. He submits an offence has been registered against 16 accused persons on the complaint made by complainant Komal Shastri and out of them, 10 persons have already been enlarged on bail by the Court below. He also submits the appellant was granted interim bail by this Court. He further submits the alleged offence has not been committed on account of the caste of the complainant party. He further submits that the initial FIR was registered for bailable offences. Hence, considering all the aspects of the matter, the appellant may be extended the benefit of Section 438 of the Cr.PC.





5. Learned counsel for the State would oppose the above prayer.
6. I have heard learned counsel for the parties and perused the case diary.
7. Considering the written complaint so made and other material collected by the prosecution and further considering the fact that similarly situated co-accused namely Gendram Yadav has already been granted anticipatory bail by this Court vide order dated 12.04.2023 in CRA No. 532 of 2023, I am inclined to allow this criminal appeal, accordingly, the appeal is **allowed** and order passed by the learned Special Judge dated **06.03.2023** is hereby **set-aside**.

8. It is directed that in the event of the appellant executing a personal bond for a sum of **Rs.50,000/-** with one surety of like sum to the satisfaction of the concerned arresting officer, he shall be released on anticipatory bail on 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;and

(c) he shall not act in any manner which will be prejudicial to fair and expeditious trial.

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

Sd/-
(Rakesh Mohan Pandey)
Judge