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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 3423/2021**

DEEPAK Petitioner

Through: Mr. Satyendra Kumar Rai, Advocate

Versus

STATE OF NCT OF DELHI Respondent

Through: Ms. Neelam Sharma, APP for State
Mr Siddhant Gautam, Advocate for Complainant

+ **BAIL APPLN. 3361/2021**

JITENDER Petitioner

Through: Mr. Satyendra Kumar Rai, Advocate

Versus

STATE OF NCT OF DELHI Respondent

Through: Ms. Neelam Sharma, APP for State
Mr Siddhant Gautam, Advocate for Complainant

+ **BAIL APPLN. 3362/2021**

SMT SHAKUNTLA DEVI Petitioner

Through: Mr. Satyendra Kumar Rai, Advocate

Versus

STATE OF NCT OF DELHI Respondent

Through: Ms. Neelam Sharma, APP for State
Mr Siddhant Gautam, Advocate for Complainant

+ **BAIL APPLN. 3375/2021**

SUNIL

..... Petitioner

Through: Mr. Satyendra Kumar Rai, Advocate

Versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Neelam Sharma, APP for State

Mr Siddhant Gautam, Advocate for Complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

24.09.2021

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1. The present bail applications have been filed under Section 438 Cr.P.C. on behalf of the applicants seeking anticipatory bail in FIR No. 484/2021 registered under Sections 3(I)(II)(III) and 3(1)(x) of the SC/ST Act and Sections 323/341/354/509/147/148/34 IPC at Police Station Govind Puri, Delhi.

2. Mr. Satyendra Kumar Rai, learned counsel for the applicants, while arguing the aforesaid bail applications has drawn the attention of the Court to the complaint dated 16.04.2021 given on behalf of the *Archaeological Survey of India, Sub Circle, Tughlaqabad, New Delhi* to the SHO, Police Station Govind Puri in relation to encroachment on the ASI land as well as installing of statue of *Baba Sahab Shri Bhim Rao Ambedkar* in the night. He submits that a similar complaint was also given by the applicant *Jitender* to

the SHO, Police Station Govind Puri. He further submits that the present complaint filed by the complainant *Chander Pal Singh* is in fact motivated, on account of a land dispute which has been pending between the parties. In this regard, he has referred to earlier proceedings including FIR No. 277/2013 registered under Sections 447 IPC & Sections 19/30/32 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 at Police Station Govind Puri, Delhi against the present complainant. He has also referred to FIR No. 933/2013 registered under Sections 354(B)/323 IPC at Police Station Govind Puri, Delhi at the instance of the applicant *Smt. Shakuntla Devi* against the complainant. It is also submitted that the complainant had earlier lodged an FIR bearing No. 454/2015, registered under Sections 3(1)(2)/3(1)(10) of the Schedule Castes & Schedule Tribes (Prevention of Atrocities) Act, 1989, against one of the applicants alongwith others which later on came to be quashed on the basis of settlement. He has also referred to the proceedings under Sections 107/150 Cr.P.C. pending between the parties. Learned counsel submits that the land with respect to which the applicant *Jitender* had submitted the complaint belongs to *Archaeological Survey of India* and the complainant by installing the statue of *Baba Sahab Shri Bhim Rao Ambedkar* was in fact trying to encroach upon the land. He argues that the ingredients of the alleged offence are not made out and in this regard has referred to the decision of the Supreme Court in Hitesh Verma v. State of Uttarakhand and Another reported as **(2020) 10 SCC 710**. It is submitted that a reading of the FIR would not show that any caste-based remarks were hurled at any particular person. It is also submitted that in the FIR only the word '*Chamako*' has been mentioned.

3. Learned APP for the State, duly assisted by learned counsel for the complainant, has vehemently opposed the bail applications. She has referred to the Status Report to submit that in the present case the incident occurred on Independence Day, when the complainant alongwith others had gone to hoist the national flag near the statue of *Baba Sahab Shri Bhim Rao Ambedkar* installed in a plot. She submits that the applicants have not only hurled caste-based remarks but also outraged the modesty of women as well as caused injuries to others. She further submits that in consequence of the incident, eight persons were injured whose MLCs were collected from *AIIMS Hospital*. It is informed that there were nine victims in total. It is submitted that the applicants also piled up cow dung and garbage near the statue of *Baba Sahab Shri Bhim Rao Ambedkar*, as a result of which Section 3(1)(t) of the SC/ST is also attracted in the present case. Learned APP submits that after the incident, the crime team reached the spot and photographed the place of incident, where it is clearly visible that cow dung and garbage were piled up near the statute of *Baba Sahab Shri Bhim Rao Ambedkar*. It is submitted that during investigation, the Investigating Officer also came across a video clip, which has captured the incident. By the said footage, the version of the victims is stated to have been corroborated and the presence of all the four accused persons at the spot recorded. It is informed that the investigation is still pending.

4. I have heard learned counsels for the parties and perused the material placed on record.

5. In Prathvi Raj Chauhan v. Union of India and Others reported as **(2020) 4 SCC 727**, it has been observed that an anticipatory bail application with respect to offence under the SC/ST Act is maintainable provided the

ingredients of the offence are not made out from a reading of the FIR.

6. The ingredients of offence under Section 3(1)(r) [earlier Section 3(1)(x) of the SC/ST Act] are (i) intentional insult or intimidation with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (ii) the incident ought to have occurred in '*public view*'. In the present case, the prosecution case is that the victims had gone to the place of incident to hoist the national flag on the occasion of Independence Day. However, the applicants prevented the victims from hoisting the flag, outraged the modesty of certain women, hurled caste-specific abuses, defiled the statue of *Baba Sahab Shri Bhim Rao Ambedkar* installed in the plot and caused injuries to the victims. The alleged incident is further stated to have occurred in a place that was open to public view, where members of public were also present.

7. On a specific query, learned APP for the State has informed that nine victims including the eight injured are not part of one family.

8. Keeping in view the aforesaid, I found no ground to admit the applicants on bail. The bail applications are accordingly dismissed as not maintainable.

9. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case.

MANOJ KUMAR OHRI, J

SEPTEMBER 24, 2021

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Click here to check corrigendum, if any