

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23<sup>RD</sup> DAY OF NOVEMBER, 2017

BEFORE

THE HON'BLE MR.JUSTICE BUDIHAL.R.B

CRIMINAL PETITION No.8383 OF 2017

**BETWEEN:**

Sri. Vipin N.,  
S/o M. Nanu,  
Aged 35 Years,  
R/at 1242, 1<sup>st</sup> Main,  
2<sup>nd</sup> Cross, LN Colony,  
Yeshwanth Pura,  
Bengaluru - 560 022.

...Petitioner

(By Sri. Vinod Kumar M, Advocate)

**AND:**

State of Karnataka  
Represented by  
Station House Officer,  
Yeshwanth Pura Police Station,

Represented by the SPP  
High Court Building,  
Bengaluru - 560 001.

...Respondent

(By Sri. K. Nageshwarappa, HCGP)

This Criminal Petition is filed under Section 438 of Cr.P.C. praying to enlarge the petitioner on bail in the

event of his arrest in Crime No.381/2017 of Yeshwanthapura Police Station, Bengaluru for the offence punishable under Sections 3(x) Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act and Sections 354 and 506 of IPC.

This Criminal Petition coming on for Orders, this Day, the court made the following:

**ORDER**

This petition is filed by the petitioner/accused filed under Section 438 of Cr.P.C. seeking anticipatory bail to direct the respondent-police to release the petitioner on bail in the event of his arrest for the alleged offences punishable under sections 3(x) Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act and Sections 354 and 506 of IPC registered in respondent-police station Crime No. 381/2017.

2. Brief facts of the prosecution case, as per the complaint averments when the complainant had been to clear the lane in front of the house of the petitioner, at that time, she told that the weeds which was wet as well as dry it could have been separated. For that, the petitioner herein told that there is no system of separating the same. Hence, he further told her, it is her duty to do it since she belongs to the lower strata community. The further allegation that he has abused her by taking name of the caste as 'Madiga'. On the basis of the said complaint, case came to be registered.

3. Heard the arguments of the learned counsel appearing for the petitioner and also the learned High Court Government Pleader appearing for the respondent-State.

4. Learned High Court Government Pleader made submission that since it is under 438 of Cr.P.C seeking anticipatory bail, Section 18 of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, is a bar to entertain the petition. Hence, he submitted to reject the petition.

5. Learned counsel for the petitioner made submission that the allegations made in the complaint cannot be believed and they are improbable. The petitioner was not knowing the caste of the complainant, he is a practicing advocate. He also made submission that the petitioner who is advocate represented the Corporator of that area in a proceedings before the court and because of that reason, the MLA of that area having grudge got this complaint filed through the complainant. Hence, he

submitted by imposing reasonable conditions, the petitioner may be admitted to anticipatory bail.

6. I have perused the grounds urged in the bail petition, FIR, complaint and other materials produced before the Court. Since the petition is filed under 438 Cr.P.C and in view of the section 18 of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, court has to examine whether the materials placed on record will constitute the alleged offence under the provision of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act.

7. Looking to the materials and even from the complaint averments, it goes to show that it is in front of the house of the petitioner as alleged and there is no mentioning that it is in the public place, wherein the public were also present. Apart from that, it is mentioned by the complainant that she belongs to the

lower caste community but she has not mentioned as to what is the caste of the present petitioner. Apart from that this alleged incident even according to the complainant took place when she told about the separation of the wet and dry garbage, then the petitioner told her that there is no system of separating. Therefore, no intention can be attributed to the petitioner at this stage. Therefore, considering all these aspects of the matter, I am of the opinion that the materials and the allegations made in the complaint will not constitute the alleged offence under the provisions of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act. The petitioner claims that he is innocent and not involved in the alleged offence. Therefore the bar under section 18 of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act is not made applicable to entertain this petition filed under section 438 of Cr.P.C. The

petitioner is ready to abide by any reasonable conditions to be imposed by this Court. The alleged offences against the petitioner is neither punishable with death nor imprisonment for life and it is triable by the Magistrate Court. Hence, I am of the opinion that by imposing reasonable conditions, petitioner can be granted with anticipatory bail.

Hence, the petition is allowed. Respondent-police are directed to release the petitioner/accused on bail in the event of his arrest for the said offences, subject to the following conditions,

- a. Petitioner shall execute a personal bond for Rs.50,000/- and has to furnish one solvent surety for the likesum to the satisfaction of the concerned Court.

- b. Petitioner shall not tamper with any of the prosecution witnesses, directly or indirectly.
- c. Petitioner shall appear before the concerned Court regularly.

Sd/-  
JUDGE

Akv