



ITEM NO.301

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

WRIT PETITION(CRIMINAL) Diary No(s). 8222/2023

PAWAN KHERA

Petitioner(s)

VERSUS

THE STATE OF ASSAM & ANR.

Respondent(s)

Date : 23-02-2023 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE M.R. SHAH  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Muhammad Ali Khan, Adv.  
Mr. Abishek Jebaraj, AOR  
Mr. Omar Hoda, Adv.  
Mr. Uday Bhatia, Adv.  
Ms. Eesha Bhakshi, Adv.  
Mr. Karan Sharma, Adv.

For Respondent(s) Ms. Aishwarya Bhati, ASG  
Mr. Shuvodeep Roy, AOR  
Mr. Sai Shashank, Adv.  
Mr. Deepayan Dutta, Adv.  
Ms. Poornima Singh, Adv.  
Mr. Digvijay Dam, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

- 1 The petitioner is the Chairperson of the Media and Publicity Department of the Indian National Congress. He held a press conference on 17 February 2023 in Mumbai. On 20 February 2023, a complaint was lodged at the Hazratganj Police Station in Lucknow, which was converted into an FIR bearing No 65/2023 for offences punishable under Sections 153A, 500, 504 and 505(2) of the Indian

Penal Code 1860<sup>1</sup>. On 20 February 2023, another FIR bearing No 86/2023 was registered at Varanasi for offences punishable under Sections 153A, 295A and 505 of IPC. Today (23 February 2023), the petitioner was deboarded from an Indigo flight travelling from Delhi to Raipur on the ground that he was to be arrested by the Assam Police.

2 A communication has been addressed by SI Lakhindra Saikia of Haflong Police Station, Dima Hasao, Assam to the SHO, Police Station, Domestic Airport, New Delhi stating that the petitioner is required to be apprehended in connection with Haflong PS Case No 19 of 2023 for offences punishable under Sections 153A/153B(1)/500/504/505(1)(b)/505(2) and 120B of IPC.

3 The jurisdiction of this Court under Article 32 of the Constitution has been invoked for diverse reliefs, including:

- (i) quashing of the complaints;
- (ii) in the alternative, transfer and clubbing of the FIRs at one jurisdiction; and
- (iii) restraint on all coercive steps and to provide security to the petitioner and his family.

4 We have heard Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the petitioner, in support of the application for urgent interim reliefs. Ms Aishwarya Bhati, Additional Solicitor General, appears for the State of Assam with Mr Shuvodeep Roy.

1 “IPC”

5 Since the proceedings were mentioned for urgent orders, this Bench has been  
constituted.

6 At the outset, we have indicated to counsel for the petitioner that a petition  
under Article 32 cannot be entertained for quashing the FIRs since the petitioner  
has an alternate remedy under Section 482 of the Code of Criminal Procedure  
1973<sup>2</sup> before the jurisdictional High Court. Moreover, the petitioner will have to  
seek regular bail before the competent court.

7 Dr Abhishek Manu Singhvi submits that the petitioner would not press the prayer  
for quashing of the FIRs since the petitioner would be advised to pursue the  
remedies which are available to him in accordance with law before the  
appropriate High Court. However, the petition has been pressed for clubbing of  
the FIRs in one jurisdiction since it has been urged that the gravamen of all the  
FIRs (lodged presently at Lucknow, Varanasi and Dima Hasao) is one and the  
same, namely, the press conference at which certain objectionable words were  
used. Dr Singhvi has stated that the petitioner has since clarified that the use of  
the language was inadvertent, though inappropriate, and that he would not  
stand by the use of such language. However, Dr Singhvi states that the  
petitioner tenders an unconditional apology.

8 Apart from the above submission, it has been urged that the words taken at their  
face value, as reflected in the FIRs, do not establish any offence punishable  
under the Sections of the IPC which have been invoked, including Sections 153A,  
153B, 295, 500, 504 and 505 of IPC. Learned senior counsel also urged that  
recourse to the power of arrest under Section 41A CrPC was not warranted  
where the offence is punishable for a term not exceeding seven years.

- 9 Ms Aishwarya Bhati, Additional Solicitor General, on the other hand, submitted, after advertng to the live replay of the offending video, that the expression which was used by the petitioner was not unintentional and, on the contrary, a deliberate attempt to denigrate a constitutional functionary has been made. The Additional Solicitor General has also urged that the petitioner, having been arrested at Delhi Airport, would be produced before the court of the competent jurisdiction for transit bail and the petitioner may seek his remedies before that Court.
- 10 We are inclined to entertain the petition confined to the issue as to whether the FIRs should be clubbed in one and the same jurisdiction. Such a course of action has been previously adopted by this Court in **Arnab Ranjan Goswami v Union of India**<sup>3</sup>.
- 11 We have also noticed the submission which has been urged by senior counsel appearing on behalf of the petitioner that the words taken at their face value as reflected in the FIRs do not establish an offence punishable under the provisions which have been invoked in the FIRs.
- 12 We pass the following *ad-interim* order:
- (i) Issue notice on the prayer of the petitioner for transferring and clubbing of the FIRs which have been registered in respect of the press conference in question in one jurisdiction;
  - (ii) For that purpose, notice shall issue, at this stage, to the States of Assam and Uttar Pradesh;

- (iii) Ms Aishwarya Bhati, Additional Solicitor General, appearing with Mr Shuvodeep Roy, accepts notice on behalf of the State of Assam. Liberty to serve the Standing Counsel for the State of Uttar Pradesh, in addition;
  - (iv) In order to enable the petitioner to apply for regular bail before the jurisdictional court, upon the FIRs being transferred to one jurisdiction, we direct that the petitioner shall be released on interim bail by the court of the competent Magistrate at Delhi where he is to be produced this evening;
  - (v) The above order is passed in connection with Haflong PS Case No 19 of 2023; and
  - (vi) The above order shall remain in operation till 28 February 2023;
- 13 List the Petition on 27 February 2023.

**(SANJAY KUMAR-I)**  
**DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)**  
**ASSISTANT REGISTRAR**