

MHTH060012062023



**ORDER BELOW EXH-1 IN ANTICIPATORY BAIL NO.612/2023**  
**(CNR NO.MHTH06-001206-2023)**

1] The applicant Rajesh Bhikchand Mungse, is having apprehension that he may be arrested in C.R.No.I-153/2023 registered with Sahivajinagar Police Station under Section 505(2), 504 and 501 of the Indian Penal Code. Hence, he is seeking direction for grant of bail in the event of his arrest in said crime under Section 438 of Cr.P.C.

2] I have heard Ld. Counsel for the applicant, Ld. APP, the Investigating Officer. Perused documents placed on record.

3] Brief facts giving rise to this application are such that, the complainant is a member of core committee of a political party. On 04.04.2023, when the complainant was watching her twitter account, it revealed to her that present applicant has posted a rap song addressing to members of political party suggesting that they have taken money from another political party to join another party such as, “चोर आले पन्नास खोके घेवून चोर आले, एकदम ओके होवून, कसे बघा चोर आहे... ..”. Therefore, being member of a particular political party, the complainant thought such rap song defamatory against her political party and hence she lodged

report on the basis of which the above said offence came to be registered.

4] It is the contention of applicant that, he is innocent and falsely implicated in this crime. His right to freedom of speech and expression guaranteed by Constitution of India under Article 19 (1) (a), has been violated. He has raised voice against the injustice being caused to public at large at the hands of members of some political party. He had no intention to target any specific person but it was his intention to raise social and political issues before public at large. The video alleged to be defamatory is already in possession of investigating machinery. Hence, his physical custody is not at all required. Moreover, the complainant has no locus standi to lodge complaint. In fact, she herself has posted defamatory substance on twitter account suggesting that the present government is a corrupt government. He placed reliance on the ruling laid down in the case of Arneeshkumar vs. State of Bihar (2014) 8 SCC 273 and the necessity of issuing notice under Section 41A of Cr.P.C. He shown readiness to cooperate with investigation and to abide each and every condition.

5] The prosecution has strongly opposed the application on the ground that the wordings used in the rap songs are very objectionable pointing out conduct of some members of political parties due to which there is likelihood of disturbance of law and order in this State. If the applicant is released on bail, he may again commit such act repeatedly. It is contended that the

electronic instruments by which rap song has been prepared, are to be seized.

6] From the allegations against the applicant and the say filed by prosecution, it does not appear that the electronic instruments are the material evidence in this crime by which it is alleged that the rap song has been composed. The video is already available on social media and hence, for the recovery of the same, there is no need of physical custody of the applicant. Therefore, I do not find that physical custody of the applicant would serve any purpose. Applicant can be directed to attend police station and to cooperate with investigation. Hence, I deem it fit to pass following order:-

**ORDER**

1. Application is allowed.
2. In the event of arrest of applicant viz. Rajesh Bhikchand Mungse, in connection with C.R.No.153/2023 registered with Shivajinagar Police Station, he be released on bail on his furnishing PR and SB of Rs.15,000/- on following conditions:-
  - a] the applicant shall attend Shivajinagar Police Station once in a month on every second Saturday in between 11 a.m to 2 p.m and shall cooperate with investigation till filing chargesheet.
  - b] the applicant shall not pressurize the prosecutrix or any other witness nor shall tamper with evidence.
3. The concerned police station be informed accordingly.

Kalyan  
Dt.:- 20.07.2023

(R. G. Waghmare)  
Additional Sessions Judge, Kalyan.