

**IN THE COURT OF SH. ANIL ANTIL, ASJ-04, PHC, NDD, NEW
DELHI**

Bail Application No. FIR No. 152/2021

PS: Connaught Place

u/s 188/269/270/153-A/120-B/34 IPC

& Section 3 Epidemic Diseases Act & 51(b) DM Act.

State Vs. Preet Singh

27.08.2021

Matter taken up physically.

File taken up today on an application as filed u/s 439 Cr.P.C on behalf of applicant/accused **Preet Singh** for seeking regular bail, which is fixed for today.

Present : Sh. S.K. Kain, Additional PP for the State alongwith IO

SI Ramkesh Meena (through V/C).

Sh. Azad Singh, learned counsel for the applicant/accused Preet Singh.

Reply to the anticipatory bail application alongwith video clippings and transcript copy have already been supplied to the learned counsel for the applicant/accused by the IO and pleadings are complete.

1. By this order, I shall dispose of an application filed on behalf of the applicant/accused Preet Singh for grant of regular bail.

2. It was argued by learned counsel for the applicant/accused

that this is the first bail application moved on behalf of the applicant/accused Preet Singh and no such application has been filed on his behalf before the any court of law having equivalent or superior jurisdiction to entertain the same, after dismissal of his application u/s 437 Cr.P.C by the court of concerned learned MM vide order dated 12.08.2021. It was submitted that the said application was disposed off without application of mind and appreciation of material facts available on record.

3. Learned counsel for the applicant/accused further argued that applicant has full faith in the Constitution of India and being a responsible citizen of this country, he knows the consequences to act against the law of land .

4. It is stated that he has deep roots in the society has clean antecedents, has not been convicted, belongs to a respectable family and there is no chance of his absconding or fleeing from justice or influencing or threatening the witnesses of the prosecution. It was also submitted that he himself appeared before the IO on the intervening night of 09/10-08.2021 on the call of Mr. Ashwani Upadhyay, Co-organizer of the event, (who is on regular bail in this case) and since then applicant is in J.C in this case.

5. Learned counsel for the applicant/accused argued that applicant/accused Preet Singh has been falsely implicated in the present case in connivance of his opposition leaders despite the fact that he was not named in the FIR ; that there was no complaint in verbal and writing or PCR call against the applicant or any other person qua the offences as

alleged in the FIR ; and the present case is simplicitor to put undue pressure upon him with the intention to harm his reputation, prestige and status in the eyes of Indian people ; that the applicant and his other workers have been maliciously booked in the present FIR by cooking false story and introducing a Police Constable as Complainant, who seems to be an interested person.

6. Learned counsel for the applicant/accused further argued that on 08.08.2021 an event was supposed to be organized at Jantar Mantar to celebrate ***Bharat Choddo Movement / August Kranti*** initiated by Mr. Mahatma Gandhi ji and the purpose of the event was to put forth the demand of some law(s) before the Govt of India with all good and bonafide intentions in the peaceful manner and for the national interest ; people were supposed to gather there to raise their voice in single volume ; that as no such permission was granted by the competent authority to celebrate the same, he went there only to inform the supports not to gather there as no permission has been granted and the event has been cancelled ; and it was not the intention of the applicant to cause harm to any person, public, any property concerning individual and government and to spread any kind of hatred or enmity between the community and public.

7. It is argued by the learned counsel for the applicant that he had not given any hatred speech and also from the perusal of the FIR and the interview, it is evident that applicant has not uttered any words against any religions or any other section of the society.

8. Learned counsel for the applicant/accused submitted that

according to FIR, all the offences alleged against the applicant/accused are bailable in nature except offence punishable under Section 153-A IPC and the essential ingredients to make out a case under section 153-A IPC against the applicant are missing and till date there is not an iota of evidence to establish that there was intention of the applicant to harm enmity between two groups of people of society by delivering speech and interview to a reporter.

9. The authenticity of the alleged incriminating video and transcript is challenged by the learned counsel for the applicant/accused submitting that its veracity can only be tested during the course of trial, which is too far at this stage due to special circumstances and situation of Covid 19.

10. It was further argued that applicant is in judicial custody since 09.08.2021, investigation qua him is complete ; nothing has to be recovered from his possession or at his instance as most of the evidence on which prosecution is relying is in public domain, nor any police remand of applicant was taken when the applicant had surrendered. And, thus no useful purpose would be served by keeping him behind the bars for unlimited period when it is clear that nothing incriminating has surfaced against the applicant ; and ready and willing to abide by any condition(s) if released on bail and/or undertakes to join the investigation as and when required or directed to do so by the IO/SHO/arresting officer or any other office related to the investigation of the present case.

11. To support his contentions and to highlight the meaning and consequences of offence under section 153-A IPC, learned counsel for the applicant/accused has relied upon the following judgments ;

i) **Patricia Mukhim Vs. State of Meghalaya & Ors 2021 SCC online SC 258 ;**

ii) **Arnesh Kumar Vs. State of Bihar & Anr. 2014(8) SCC 273**

12. Highlighting the law laid down in the above said judgments by the Hon'ble Supreme Court of India, it was canvassed that inalienable right in the form of freedom of speech of the applicant can not be curtailed by the illegal, unreasonable and arbitrary acts of the executive. The applicant/accused indefeasible right of speech of freedom, and they had gathered at Jantar Mantar to canvass and propagate their religion ; and it was not deliberate and intentional act on the part of the applicant to incite any hatred or violence towards other religion or community.

13. **Per contra** the bail application is strongly opposed by the learned Addl. PP for the State. It was argued that investigation is at initial stage and from the investigations conducted till date, it appears that there are sufficient material to establish charges for the commission of offence under Section 153A IPC against the applicant, and after viewing the video clippings and listening interview of applicant telecasted by news channel Khabar India on youtube channel, it appears that hatred slogans were passed against the particular religion by the applicant/accused alongwith other co-accused persons.

14. It was further argued by learned Addl. PP for the State that applicant/accused Preet Singh is president of **Save India Foundation** and the co-organizer of he event where the inflammatory slogans were shouted and hatred seech were delivered by the accused persons ; that he had given a call to assemble at Jantar Mantar on the alleged day of

incident with ulterior motive, despite the refusal of the permission by the competent authority ; he reached there along with his supports of *Save India Foundation* and joined the procession, as planned earlier, without going into the depth of the repercussions of joining his procession.

15. It is urged by the learned Addl. PP that pursuant thereto the people belonging to various outfits started gathering in huge number and thereafter seeing this opportunity and strength of Hindu masses accused Preet Singh with his associates conspired to use the platform to create communal disharmony and to give communal colours to their plants ; they persuaded the youth to propagate against a particular community, despite the sanction to gather refused by the competent authority.

16. Learned Addl. PP further urged that recovery of the mobile phone and other devices used in the commission of the case crime are yet to be effected from the possession of the applicant/accused and co-accused persons are still absconding and there is apprehension that applicant/accused may hamper the investigation and tamper the evidence of prosecution witnesses by threatening them.

17. Learned Addl. PP for the State further submitted that investigation of the case is at nascent stage, his further custodial interrogation is required to identify the other associates and to unearth the entire conspiracy ; and if the applicant/accused is granted regular bail, he may create unruly situation in the area which will be prejudicial to public peace and tranquility, may also create further serious law and order situation, and also it may lead to substantial injustice and hamper the investigation of the prosecution case.

18. Heard and record perused.

19. That prima facie on the basis of the material placed on record and the submissions put forth by the prosecution, it is observed that there has been active participation by the applicant in his individual capacity and also as the main organizer of the event itself which was conducted at Jantar Mantar in spite of the denial of permission by the Delhi Police and total disregard to Covid-19 protocol issued by the Govt. of India.

20. As it is observed from the audio visual material that the key attendees and others who were present both on and of the stage were there as invites of the applicant and other associated groups.

21. It is pertinent to state that right to assemble and freedom to air one's thoughts are cherished under the Constitution of India, however, they are not absolute, they are to be exercised with inherent reasonable restrictions. It is apposite to mention that the applicant not only voluntarily organized the event but also actively participated and provided support to the views and contents of inflammatory speeches, which were being made by the participants / accused persons at that time, by acknowledging and endorsing via gestures and clappings intermittently. Given the stature of the applicant, it was expected that he ought to have exercised his authority, in these circumstances, and prevented participants from the airing of such inflammatory opinions in the larger interest of the public / committee welfare. On the other hand, applicant is clearly seen actively participating in the incendiary speeches along with his other associates.

22. In addition, on prima facie analysis of the inflammatory and incendiary content of the speeches or interviews of the participants

members of the event, comments especially those pertaining in express pejorative references to a religious community, and keeping in view that the applicant was an active organizer of the event, he can not later absolve himself of the responsibility of the content or consequences arising therefrom. The complicity of the applicant in the alleged offences are prima facie evident from the material placed before the court ; and the contentions of the applicant to say that essential ingredients of offence u/s 153-A IPC are not made out qua the present applicant is totally unconvincing.

23. As rightly highlighted by the learned Addl. PP during arguments that the similar contentions and the authorities relied upon by the applicant were considered and rejected by this court at the time of disposing of the bail application of co-accused **Bhupinder Tomar @ Pinki Chaudhary**, such arguments *per-se* are *de-hors* the judicial principles settled therein, in said authorities.

24. Further, the circumstances and material placed on record have to be analyzed in totality and holistically, taking note of the nature of accusations and severity of the offences alleged, and given that the investigation is still at nascent stage ; number of accused persons are absconding and evading the process of law ; the entire incriminating material is yet to be recovered, in backdrop of the fact that the applicant was an active main organizer of the event, a influential personality and there is possibility of him interfering in the investigation and/or influencing the witnesses of the case. Thus, in my view, it is a pre-mature stage to enlarge the applicant/accused Preet Singh on bail at this juncture.

25. Accordingly, bail application of applicant/accused Preet Singh u/s 439 Cr.P.C stands disposed off as DISMISSED.

26. Needless to say any observations made herein above while disposing of the pre arrest bail application of accused shall not tantamount to expression on the merits of the case.

27. Ordered Accordingly.

28. Copy of order be sent to all the concerned parties/ or their respective learned counsels and IO through electronic mode.

29. In addition copy of order be given dasti, as per rules .

The order be also uploaded on the official website of the court.

30. Proceedings were conducted through video conference and there was complaint of any technical glitches nor there was any grievance regarding the audio and video transmission.

(Anil Antil)
Addl. Sessions Judge-04,
New Delhi District, Patiala House Courts
New Delhi/27.08.2021