

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No.585 of 2022**

Kalicharan Dhananjay Saraag @ Kalicharan Maharaj @ Abhijit Dhananjay Saraag, son of Shri Dhananjay Govindrao Saraag, aged about 44 years, at 95 B, Maa Sharda Nagar, Sukhliya, Near Bharat School, Indore, District Indore, Madhya Pradesh, Also at Shivaji Nagar, Akola, District Akola, Maharashtra

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station Tikrapara, Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Kishore Bhaduri, Senior Advocate with Shri Mehal Jethani, Advocate
For Respondent	:	Shri Sunil Otwani, Additional Advocate General

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****1.4.2022**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the Applicant who has been arrested in connection with Crime No.578 of 2021 registered at Police Station Tikrapara, Raipur, Chhattisgarh for offences punishable under Sections 124A, 294, 295A, 153A(1)(a), 153B(1)(a), 505(1)(b), 505(2) of the Indian Penal Code.
2. According to the case of prosecution, on 26.12.2021, a *Dharm Sansad* was organised at Raipur, Chhattisgarh, wherein the Applicant delivered a speech before audience (public). Allegedly, in his speech, the Applicant used abusive language against father of the



nation Mahatma Gandhi. In the speech, he also used offensive language against various communities. One Pramod Dubey lodged First Information Report against the Applicant on 26.12.2021. Initially, offence under Sections 294 and 505(2) of the Indian Penal Code was registered against the Applicant. Later on, other offences under Sections 295A, 153A, 153B, 124A of the Indian Penal Code have been added. During the course of investigation, the Applicant was arrested on 30.12.2021.

3. Shri Kishore Bhaduri, Learned Senior Advocate appearing for the Applicant submits that the Applicant is innocent. He has been falsely implicated in this case due to political rivalry. The offence under Section 124A of the Indian Penal Code is *prima facie* not made out against the Applicant. The decisive ingredients for establishing the offence is missing. In the First Information Report, there is no suggestion that the Applicant did anything as against the Government of Chhattisgarh, Government of India or any other Governments of States. The complaint filed against the Applicant contains no averment that the Applicant did anything as against the Governments. In this case, there is no allegation in the complaint that there was any violation of law or disturbance of public order post the speech delivered by the Applicant. Reliance has been placed on (2021) 1 SCC 1 (Amish Devgan v. Union of India) and AIR 1962 SC 955 (Kedar Nath Singh v. State of Bihar). With regard to the other offences, it is argued that the offence under Section 294 of the Indian Penal Code is a bailable offence and all other offences are triable by a Magistrate First Class wherein the maximum prescribed punishment is 3 years. According to the Learned Senior Advocate, the comment





made by the Applicant against father of the nation is his personal opinion. Rest part of his speech relates to past history of certain communities, which also do not constitute any offence. The Applicant has a fundamental right of freedom of speech under Article 19(2) of the Constitution of India. He has not promoted any enmity between two classes of people. There has been no law and order problem, no communal violence and there has been no disturbance of public place because of the said speech delivered by the Applicant. The Applicant is a permanent resident of Akola (Maharashtra) having movable and immovable properties. Custodial interrogation of the Applicant is not required. Charge-sheet has already been filed. Trial is likely to take much more time. Two other crimes were registered against the Applicant in the State of Maharashtra and in both the cases he has already been granted regular bail. Therefore, it is prayed that in this case also, he may be granted regular bail.

4. Shri Sunil Otvani, Learned Additional Advocate General appearing on behalf of the Respondent/State opposes the arguments raised by Learned Senior Advocate for the Applicant. Referring to the relevant part of the speech delivered by the Applicant, it is argued that in his speech, the Applicant has used abusive language against father of the nation. Further referring to the statements of Neelkanth, C.P. Sharma, Pramod and Ishwar Gole recorded under Section 161 of the Code of Criminal Procedure, it is argued that *prima facie* all the offences are made out against the Applicant. Looking to the nature of offences, it is prayed that the bail application may be rejected.





5. I have heard the arguments raised on behalf of the parties and perused the case diary and other material available with utmost circumspection.
6. Considering the entire material available before this Court, the submissions put-forth on behalf of the parties and also after going through the contents of the First Information Report and the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure and also considering the fact that charge-sheet has already been filed, the Applicant is in jail since 30.12.2021, without further commenting on other merits of the case, I am of the view that in this case the Applicant should be granted benefit of regular bail.
7. Accordingly, the bail application is allowed.
8. It is directed that the Applicant shall be released on bail on furnishing a personal bond for a sum of Rupees One Lakh with two solvent sureties each for a sum of Rupees Fifty Thousand to the satisfaction of the concerned Trial Court for his appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
JUDGE