

B.A.No.885/2021

FIR No. 96/2021

PS Crime Branch Central Delhi

State v. Sandeep Singh Sidhu @ Deep Sindhu

**U/s 147, 148, 149, 152, 186, 269,279,353, 332, 307, 308, 395, 397,
427, 188, 120B, 34 IPC r.w.s.25,27,54,59 Arms Act r.w.s.3 PDPP Act,
r.w s.30 AMASR Act**

16.04.2021

This is an application u/s 439 Cr.P.C for grant of regular bail on behalf of accused-applicant Sandeep Singh Sidhu in case FIR No.96/2021.

Ld. Counsel for accused-applicant submitted that the present FIR was registered on 27.01.2021, and the present petitioner has been arrested in connection thereof on 09.02.2021, and is in custody since then, including police custody for 14 days. That the accused-applicant has neither indulged in any act of violence nor has committed any alleged offence on 26th January, 2021. That leaders of Farmer Unions had given a call to the Public at large for holding tractor rally on Republic Day with a view to show the strength of the protestors, protesting against the new Farmer Laws. That the accused-applicant is not a member of Farmer Union but he had shown the solidarity with the farmers by being a part of the said Farmers' protest since the very beginning i.e.from September 2020, as he himself hails from a family of farmers and has all along been a part of the said Farmers' protest as a peaceful protestor and has played a role of a social activist, who always promoted peace, discipline and peaceful talks to resolve any grave situation. That the accused-applicant never gave any call to people to gather at Delhi borders for conducting the Tractor

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Rally/March. That as per FIR, at about 11:30 a.m. the tractors and other personal vehicles started moving towards Rajghat from Shantivan Chowk thereby implying that these tractors and other vehicles must have started the said rally earlier in the morning and as per the contents of the FIR itself at about 12.15 p.m., 30-40 tractors, 125-150 motorcycles and some private vehicles (about 1000-1200 persons) came to the red light of Shantivan Chowk and started raising slogans for going to Red Fort and the crowd thereafter broke the barricades and entered the Red Fort through Lahori Gate and went to the rampart. That admittedly the accused was not present at any location with such crowd to break the barricade and then to gather at the Red Fort and infact he came much later to the Red Fort. That petitioner was resting at Murthal (Haryana) and the petitioner infact left from Murthal Shreejee Dhaba / Resort at around 12:15 p.m and reached around the Red Fort at about 2:05 p.m on 26th January which fact is well within the knowledge of the investigating agency and otherwise also is easily verifiable from the Location chart of the CDR of the mobile of the accused-applicant, CCTV Footage and other reliable piece of evidence. That the petitioner reached the area around Red Fort only around 2:05 p.m and the petitioner has also disclosed the entire route from Murthal to the Red Fort to the Investigation Officer which has been verified as well as location of mobile phones of petitioner has been verified to confirm the said route. That the petitioner has handed over his phone numbers and also his facebook, Instagram, twitter, gmail, yahoo mail and his google account to the IO. That huge crowd was already gathered at the spot before the accused-applicant reached there. That there is no video or CCTV footage or any other evidence to

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show that the petitioner has participated or has committed any act of violence. That the accused-applicant left the Red Fort premises around 2:45 p.m and the violence broke out when the accused-applicant was not even present there at the Red Fort, there are various videos of the accused-applicant where he has spoken about peace and peaceful protest and made an appeal to the people to be peaceful and disciplined. That in one of the videos, the accused-applicant is helping the police by pacifying the crowd to vacate the rampart, even in all his videos available on the social platforms, the accused can be seen always urging people to maintain peace and discipline. That the right to protest is a fundamental right and those who shared no mens rea of committing any violence and were present merely as a sign of protest cannot be implicated in the present FIR. That the only allegation against the petitioner-accused appears to be that he went live on his Facebook account and raised slogans. In fact, from the perusal of said video, the petitioner has raised slogans such as "Jhulde Nishan Rehan Panth Maharaj De" and "Bole So Nihaal". That the raising of such slogans do not constitute any crime whatsoever, as these slogans are recited every day in prayers offered at Gurudwara Sahib and family functions, when and wherever there are Ardass across the Nation. As a matter of fact, these slogans are often spoken by the Sikh Regiment of the Indian Army and they are like various slogans raised by people of all communities like Jai Sri Ram, Jai Bajrang Bali etc., to pay worship to the Almighty and therefore, it is not a crime to raise these slogans as they are merely spiritual. The said slogans do not mobilize and instigate any person or community to do any type of illegal act. That when the violence broke out, the petitioner was not even present there,

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so ingredients of Section 3 of Prevention of Damage of Public Property Act is not made out on the face of it. That the accused was never part of any unlawful assembly or those who caused violence to attract any provisions of IPC. The accused-petitioner did not carry any sharp weapon or weapon of any kind to attract the provisions of the Arms Act. That the present is a classic case of trial by Media as the petitioner was declared as the main instigator of the violence at the Red Fort on the 26th January itself and the newspapers also labeled the accused as one of the main accused. In such circumstances, the investigating agency even prior to the start of investigation tried to implicate the accused-petitioner in any manner whatsoever. That the reward of Rs.1 Lakh declared for the arrest of accused-petitioner immediately shows that the investigating agency was hell bent to somehow save its face and it followed media reports blindly to implicate the present petitioner without any investigation into his role. That the accused-petitioner has been deprived of the presumption of innocence and the entire proceedings have led to his character assassination and violation of right guaranteed under Article 14, 19 & 21 of the Constitution of India. That the accused-petitioner has already raised this apprehension before the Learned Magistrate vide an application dated 26.02.2021 seeking directions to investigating agency to preserve all videos and other material demonstrating the innocence of the accused-petitioner, copy of which is filed with the present application and contents whereof are relied upon. That Ld.CMM while disposing of said application, directed the investigating agency to investigate on the points as raised vide order dated 26.02.2021. That, however unfortunately no steps have been taken by the investigating officer as per the directions given

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vide order dated 26.02.2021 nor any videos have been supplied to the accused. That the investigation with the petitioner-accused has already been conducted and the investigation agency has verified all acts, records, role of the petitioner fully. That nothing incriminating has been recovered from his possession or at his instance. That the investigation qua the accused-applicant is complete and he is no more required by the investigating agency. In such circumstances, when the matter relates to a public agitation/protest, no mens rea can be thrust upon the petitioner. That the accused-applicant is entitled to bail on grounds of parity also as many co-accused namely Harjit Singh, Harpreet Singh Vaster, Dharmender Singh have already been enlarged on bail vide order dated 27.02.2021 and co-accused Arshpreet Singh, Mandeep Singh, Mohinder Singh and Dharmender Singh @ Harman have granted bail vide order dated 22.03.2021 by the Court of Ms.Charu Aggarwal, Ld.ASJ, Tis Hazari Courts, Delhi.

Ld. APP assisted by the IO vehemently opposed the bail application contending that the accused-applicant is the main accused and has played active role in the red fort violence that erupted on the eve of republic day. That to maintain law & order, police authorities had accorded permission for Tractor Rally with the conditions that rally may be held from 12 Noon to 5 PM on prescribed routes when arrangements at Rajpath in connection with Republic Day Celebration-2021 are over. The timing of rally and route was decided during discussions with Kisan Organisations. That as per the agreed upon route of tractor rally proposed from different borders, the area of PS Kotwaali was not specified for Tractor Rally of Kisan Organisations. Despite specific orders of appropriate authorities, an unruly mob of

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over around 1000 — 1200 persons in 40 — 50 Tractors, 125 — 150 motorcycles and private vehicles reached at Shanti Van red light trying to break the barricades, in order to reach Red Fort. Police staff apprised them through loud hailers that they are not allowed to go to Red Fort, as it was not the prescribed route for tractor rally. They were also asked to maintain social distancing, in view of Covid-19 pandemic guidelines, but they ignored all these directions and broke the barricades with the blunt force of tractors. That they drove their tractors rashly, negligently and even tried to hit the police personnel deployed on duty while shouting slogans and creating nuisance, and also attacked the police and security personnel by causing them injuries upon them with deadly weapons, they destroyed public property at large, and robbed arms and ammunition. They caused hindrance in the celebration of Republic Day and also caused damage to tableau. That during this riot at Red Fort a total 167 individuals sustained injuries, out of which 144 were policemen (Delhi Police / CRPF / CISF & SSB) and 23 were civilians including media persons. The riotous mob were carrying spears, swords, lathis and indulged into such an act of terror, that created mayhem at Red Fort and in furtherance to which riotous mob ransacked/ sabotaged/robbed the government/ public property and also damaged the building Red Fort, a national heritage site and pride of the nation. That accused Sandeep Singh Sidhu @ Deep Sidhu was arrested in the present case on 09.02.2021 and the accused during interrogation disclosed that the main purpose & sole object of his visit to Red Fort was first to conquer/ get hold of Red Fort by instigating the unlawfully assembled riotous mob and then to make Red Fort a new protest site for farmers protesting against the newly enacted

Sandeep Singh Sidhu

Bill/ Act in which accused had almost succeeded. That the prosecution relies upon CCTV Footages / Videos wherein initially accused Deep Sidhu is seen outside the Red Fort and later was seen instigating, tempting & provoking the riotous mob with slogans of "RAJ KAREGA KHALSA" and various others. Thereafter, in these videos it is seen that accused Deep Sidhu alongwith the riotous mob equipped with spars, swords etc., went inside the Red Fort from Lahore Gate and reached the rampart which is a restricted site prohibited area for public entry, after which Jugraj Singh hoisted the religious flag at the rampart of Red Fort. While accused Deep Sidhu was at the rampart of Red Fort, he was live on his facebook account covering the incident. In these videos/, accused is seen coming out of Red Fort along-with absconding accused Jugraj Singh and even patted Jugraj on his back. The mobile phones of accused which was being used by him on the date & time of incident could not be recovered, as he destroyed the same along with SIM cards. It is important to highlight here that during this whole incident, accused Sandeep Singh @ Deep was instigating the mob and his fans by raising slogans. That the accused-applicant was very well versed with the route provided by the Delhi Police to farmers for their protests and the same was conveyed to the farmer leaders and wide publicity was given to it, but applicant / accused in complete violation & disregard of the guidelines issued by the Delhi Police reached Red Fort. That on scrutiny of the videos available on record it revealed that on 25.01.2021, accused while giving an interview to a local Punjabi news-channel, was very well aware in advance that the protestors gathered at Singhu border will not follow the route provided by Delhi Police, but will take ring road for their protest, which will be in complete

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disregard of the terms & conditions / guidelines of the NOC / Permission provided to Kisan Organizations for tractors rally by the police. That on 26.01.2021, accused Sandeep Singh @ Deep Sidhu was well conversant with the fact that the protestors were not following the prescribed route with the terms & condition as provided by the Delhi Police, and still he reached Red Fort in pursuance and furtherance of criminal conspiracy to join the riotous mob during agitation. That in pursuance and furtherance of criminal conspiracy, the applicant accused had reached at the Red Fort on 26.01.2021 at about 01:54 PM and without wasting time he directly proceeded & reached Rampart, Red Fort. The applicant/accused in criminal conspiracy with other unknown persons had deliberately, intentionally and knowingly chosen the auspicious occasion of Republic Day i.e., 26.01.2021, to hoist Nishan Sahib, in order to cause embarrassment and humiliation at the international level to the people of this country. That on the intervening night of 25/26.01.2021, a day prior to the farmers' agitation on 26.01.2021, there was disagreement between accused Sandeep Singh Sidhu @ Deep Sidhu and other Kisan Leaders, on the prescribed route. It was agreed by the Kisan Leaders that the route provided by Delhi Police while granting NOC / Permission for tractors' rally, will be followed. That on 26.01.2021, due to this disagreement with Kisan Leaders, applicant accused directly reached Red Fort via Loni Border. After reaching the Red Fort, accused Deep started inciting the members of the unlawfully assembled riotous mob, already present at Red Fort. After his incitation, absconding accused Jugraj Singh hoisted atop the Red Fort flagpole at Rampart. All this was happening in the presence of accused Sandeep Singh Sidhu @ Deep Sidhu and the

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incident was put by accused Deep Sidhu on his Facebook page, directly from Rampart of Red Fort. From Rampart while accused Deep Sidhu was live on his Facebook he was raising slogans of Kisan and various others religious slogans. He was also using loud hailer at that time. Accused didn't stop here, he came down from Rampart from Lahore Gate and again addressed the unlawfully assembled riotous mob, standing on a tractor parked outside the Red Fort, through a loud hailer and this time he was accompanied by absconding accused Jugraj Singh who hoisted Nishan Sahib from the flagpole at Rampart of Red Fort. This time also accused instigated & provoked the riotous mob. That in more than one videos available on record, applicant/accused is visible at the Rampart, Red Fort, while one of the members of riotous mob was trying to hoist Nishan Sahib on the pole Of national flag where Prime Minister of India hoists National Flat every year on 15 August. Accused Sandeep Singh Sidhu at this moment was instigating the riotous mob by raising part of slogan "JHUL TE NISHAN REHAN" and the same was completed by the members of the unlawfully assembled riotous mob by saying "PANT MAHARAJ DE", all this time applicant accused was active on his Facebook, capturing his presence & incident live from his mobile camera, at the very same time another member from the unlawfully assembled riotous mob handed him over the national flag to hoist it alongside the Nishan Sahib, but the individual over the pole threw away the national flag. This whole incident had happened in the presence of applicant accused at Rampart instigating the riotous mob. That after hoisting of Nishan Sahib from the Rampart, applicant/accused is seen in one of the CCTV Footage available on case records, coming out from Lahore Gate, Red

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Fort alongwith absconding accused Jugraj Singh. Jugraj Singh is the individual who hoisted Nishan Sahib at Rampart in the presence of applicant/accused. That in one more video, applicant/accused is seen addressing members of the unlawfully assembled riotous mob, standing on a tractor holding a hailer in front of Red Fort, after coming down from Rampart and during his address he was calling other leaders of farmers union to reach Red Fort and take further charge. Applicant/accused was also claiming that protestors have re-created the history today. This clearly that applicant accused was there at Red Fort for the said purpose in pursuance and furtherance of criminal conspiracy which is to be unearthed further during investigation. That the Accused on the date & time of incident was present at Red Fort, in furtherance of a criminal conspiracy. That prior to leaving the place of incident, applicant/accused during an interview with one punjabi news channels was inviting other farmers' leaders to reach Red Fort and join the protest from there. That CDR analysis of accused revealed and confirmed his presence at Red Fort during farmers' agitation on 26.01.2021. were made to arrest accused and teams of crime branch raided the possible/available whereabouts/hideouts of accused Deep Sidhu, but he was not found available. Accused was willfully & deliberately evading his arrest and saving his skin from the clutches of law of land. Accordingly, a cash reward to the tune of INR 1 Lac on the arrest of accused Sandeep Singh Sidhu @ Deep Sidhu was declared by Delhi Police. That there are direct and specific allegations against the present accused/applicant. The role of the present applicant is distinct, separate and independent from the other co-accused persons. Therefore, the applicant cannot claim parity with the other co-accused

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persons who have been enlarged on bail. That the applicant/accused is required for further interrogation as and when Jugraj Singh would be arrested. As is evident from the videos/Footages available on record, applicant accused most of the time is seen at Red Fort in company of Jugraj Singh. So, the detention of the applicant/accused in judicial custody is necessary and desirable till the arrest of absconding accused Jugraj Singh. Enlarging the applicant accused on bail at this stage will be fatal for the investigation and investigating agency will be deprived from the opportunity of unearthing the whole conspiracy involved in the matter. Furthermore, if the applicant accused is enlarged on bail, there is every likelihood that he may help Jugraj Singh to continue absconding and evade his arrest. That as during police custody remand of accused it came on record that accused was live on his Facebook page and also made various posts on the date & time of incident during farmers' agitation on 26.01.2021, therefore an application has been moved before the court of Learned Chief Metropolitan Magistrate, Central District, Tis Hazari Courts, Delhi, seeking permission for voice sampling test of accused Sandeep Singh Sidhu @ Deep Sidhu, by FSL expert, which is still pending. That the applicant accused is a lawyer-cum-actor by profession and also a youth icon, which means that any work / conduct done / made by applicant accused leaves deep impression / impact on the mind & soul of general public including the youth of India. His instigation at Red Fort provoked the riotous mob which finally resulted in violence. That in the course of investigation it also came to light that applicant accused was in touch with one of the arrested accused. Both these accused persons were also in touch with one of the key conspirators. That being part of

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unlawfully assembled riotous mob with common object, he is equally and squarely liable for the commission of all the offences committed by the unruly mob as per Section 149 of Indian Penal Code, 1860, if any offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, every person who at the time of committing of that offence and is a member of the same assembly, is equally guilty of that offence. All the arrested accused persons including the applicant accused, being members of an unlawfully assembly involved in the crime are equally and squarely responsible for the crime committed by the members of unlawful assembly. That if the applicant accused is enlarged on bail, he will again make his presence at the different borders of Delhi, where the farmers are still protesting, to instigate & provoke them against Bill, continue protest and this might again give birth / rise to another incident like Red Fort Riots in Delhi. That there is also strong apprehension & likelihood that if applicant accused is enlarged on bail, he may tamper the evidence against him in the present case, which is evident from the fact that applicant accused had already destroyed both his mobile phones alongwith SIMS, which he was using on the date & time of incident. More so, tampering is further evidenced from the fact that the mobile phone which he was using & seized during his police custody, was set to factory settings and there was no data saved / present in the seized mobile phone.

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FIR No96/2021 is registered on 27.1.2021 at PS Kotwali on the statement of SHO PS Kotwali, in respect of the violence and rioting

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at Red Fort on 26.1.2021 by an unruly mob of protestors agitating against the three Agriculture Acts/ Farm Bills promulgated by the Parliament in the month of September 2020. It emerges from the contents of the FIR in question that on 26.01.2021, there was reinforced law and order arrangement in and around the Red Fort, with adequate deployment of local police and other forces, on account of Republic Day Celebration-2021 in the backdrop that in the protest against 3 Farm Bills, demonstrations were being organized at various borders of capital Delhi by the different groups of Kisan unions/Organisations, as the differences/ disagreements remained unresolved after several rounds of parleys between the representatives of Kisan Organisations and Central Government and these Organisations had proposed a Tractor Rally on 26th January, 2021 in Delhi, declaring that they would enter Delhi after removing the barricades placed on the roads to stop the vehicular traffic during Republic Day arrangements. Following discussions between the authorities and the representatives of the farmers unions four routes for the proposed tractor parade were tabled and confirmed by the Farmers Union with undertaking of due adherence, from 12.00 noon to 5pm, and no part of the jurisdiction of kotwali police station was included in any of the agreed routes. At 12.00 pm information was received at Control room that farmers in large numbers on tractors and private vehicles were approaching shanti van red light from Rajghat side. There was barricading along the Nishad Raj Marg leading to the Red Fort for Republic Day function. At 12.15 from the Rajghat side some 1000-1200 persons on 30-40 tractors, 125-150 motorcycles and some private vehicles, reached at Shantivan red light and started

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raising slogans for marching towards Red Fort. They were informed that the same is not the authorized route and that they cannot be permitted to go to Red Fort to carry on their protest. The congregation did not desist instead became violent and driving the tractors dangerously and rashly broke away the barricades, endangering the lives of the police personnel. Thereafter the unruly mob broke the barricading at Subhash Marg upper and lower Subhash Marg, even hit the ambulance stationed at Nishad Raj reached Lal Qila Chowk, shouting slogans against reached at Gyan path. Meanwhile, Some more tractors and unknown/undidentified persons, after breaking the barricades reached at Lal Qila Chowk. Senior police officers tried to pacify the mob, but they were unrelenting. Large numbers of protestors gathered and entered the Red Fort from Lahore Gate and started beating the police personnel. The mob climbed the Rampart and unfurled the religious flag at the Pole of Rampart and even on domes at the sides of Rampart, they were shouting slogans, demonstrating swords skills and created much nuisance and ruckus at the Rampart. They also tried to enter inside the Red Fort through Meena Bazar but they were stopped by police staff. They attacked on the police staff by hurling stones, beating the policemen by sticks and even attacked with swords. The riotous mob caused damage to the government vehicles and public property, they robbed chains, ropes, sticks & various other articles used for barricading, besides body protecting gears like cane stick, shields, helmets etc. from the staff deployed for guarding the Red Fort, and also attempted to wrest the MP-5 weapon and a SLR, though the attempt was thwarted by the police personnel, but still they managed to one magazine of MP-5 and SLR containing 20 live

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cartridges each. They used and brandished dangerous weapons viz. swords, lathis, spears, pharsey, against the police personnel. They forced police and security personnel to jump into the moat to save their lives. The members of unruly mob completely disregarded and violated the conditions laid down in the permission / NOC for Tractors Rally by reaching Red fort illegally, with the common object to hurt policemen, cause damage to Red Fort and public property and caused hindrance in discharge of official duties and also injured them with the use of the weapons they were carrying including sticks, swords, bhaale, pharsey etc., they also pelted stones over the police personnel deployed on their duties at Red Fort and also damaged the tableau of Republic Day, 2021 stationed at Red Fort.

In the course of investigation conducted till date it has been ascertained that during this riot at Red Fort, 167 individuals sustained injuries, out of which 144 were policemen (Delhi Police / CRPF / CISF & SSB) and 23 were civilians including media persons, ransacked/ sabotaged/robbed the government/ public property and also damaged the building of Red Fort, a national heritage site, and as per information and data collected from different quartrs and agencies the following damages / robbery / loot have come to light : QRT Gypsy of CISF bearing registration No. DL-1CM-1543; Bus (Private) bearing registration No. DL-1PD-2069; CPWD Office inside Red Fort viz. Doors, Tables, lights, Computer system alongwith printer, mirrors, locks, ceiling fan, land light phone etc.; Central verge on Netaji Subhash Marg; Footpath near entry of Red Fort, Iron pole near Machan at entry gate; Boundary wall grill of Red Fort near Red Fort Metro station Gate No. 04; Park Grill & Gate near Ticket Counter,

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Police Post Red Fort viz. one DFMD, Ac, Police Post, Chairs, barricades; Front gate and lock of gate, Angoory Bagh side of Red Fort; CCTV windows inside Red Fort and outside as well; Chairs; Ticket Counter viz. ticket' counter, lights, walls, Toilets, store rooms etc.; Lahore Gate; Lift, doors, .lights, iron morchas etc. in well of Red Fort; Barricades at Shanti Red Light, Nishad Raj T-points etc.; Main Lahore Gate entry, both gates, grill gate as well as iron-gate broken; Machines and other equipment which were installed at entry checking point for entering inside the Red Fort; Magazine having 20 live cartridges of MP-5; Magazine having 20 live cartridges of SLR; Three Magazines alongwith 60 live cartridges of INSAS RIFLE; Upper hand guard of Insas Rifle, and Butt plate crack; 90 plastic sticks, 25 helmets, 105 ropes, 48 can shields, 80 body protectors green jackets, 28 tyre killers, 04 loud hailers, 01 box containing 15 Tear Gas Shells 8 long range and 7 short range), PTZ Camera were robbed.

None of these above acts are attributed specifically to have been committed by the accused-applicant. It is contended for the accused-applicant that the accused-applicant reached Red fort at around 2.05 pm while the prosecution anchors the presence of the accused-applicant at Red Fort around 1.45 pm. He is not alleged to be part of the unlawful assembly that reached Shantivan lights at around 12.15 pm, broke barricades and assaulted police men. The accused-applicant is alleged to be the key conspirator, to have instigated the mob into violating the designated route and incited the mob to resort to violence against the police officials. The prosecution relies upon the contents of the speech delivered at one public function alongside Farmer Union Leaders on 25.1.2021, and interviews to private TV

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channels given prior to the date of the incident and subsequent thereto applauding and congratulating the perpetrators and approving of the illegalities committed, to have climbed on the rampart raising slogans with the members of the unlawful assembly while one of the co-accused hoisted a religious flag at the Red Fort on the basis of numerous video footage available on social media sites. The criminal conspiracy as per the prosecution was to take hold of Red Fort and to convert it into a protest site.

While it is beyond the realm of dispute that dissent and dialogue is fundamental to democracy where the absolute power vests in the people exercised by the people through its elected representatives and that the Constitution of the India guarantees the Right to protest, the present FIR however is not impinging upon this fundamental Right to protest in any manner. The protest rally /parade had been authorised subject to restrictions imposed in the interest of law and order, it is the several acts of breach of specific embargos, the violence perpetrated, the damage caused to public property and national heritage site, nuisance at restricted site that are the subject matter of the allegations raised in the present FIR. The prosecution seeks to make an example out of the case of the accused-applicant, he being a popular public figure, such an endeavour however hazards a failure of justice as a result of compromised objectivity. The facts of the matter, the specific allegations cannot be lost sight of and nature of incriminating material cannot be disregarded at any cost. It would lie with the prosecution to establish the accusations by collecting cogent material and leading credible evidence in the course of trial, and for the Trial Court to assess and appreciate the evidence and determine the

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culpability of the accused-applicant at the appropriate stages of the proceedings. At this stage it is pertinent that the specific role ascribed in the entire incident that unfolded at Red Fort on 26.1.2021 is that the accused-applicant was present at the Red Fort from 1.45 pm to 2.45 pm as part of the unlawful assembly while other members of the unlawful assembly had hoisted a religious flag atop Red Fort, and to have raised religious slogans.

The accused-applicant is in custody since 9.2.2021 with 14 days of remand in police custody. The investigating agency in course whereof has seized the clothes worn by the accused-applicant at the time of the incident and vehicle used by the accused-applicant to reach Red Fort. Further custody is being claimed in order to obtain voice sampling for forensic examination of the social media bytes video footage and speech recording. That the accused-applicant had delivered the speech at a farmer rally, recorded interviews, raised religious slogans posted content on social media is not being controverted as such and further incarceration for the sole purpose of voice sampling is not justifiable, custody is not being necessary for obtaining voice sample of the accused. The prosecution has voiced a strong apprehension that the accused-applicant may tamper with evidence, as the accused-applicant apprehending his arrest had deleted data and formatted his mobile phone at factory settings. The prosecution's case rests largely and on the contents of video recordings and footage available and accessible to all on social media sites in public domain, and there is therefore a remote possibility of the accused-applicant being able to interfere with the content on such platform. Possibility that the accused-applicant might abscond and


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subvert the process of law has also been expressed based on the past conducted of the accused-applicant. The accused-applicant as per the own case of the prosecution is a well known public figure with deep roots in society and such apprehensions are capable of being allayed by imposing stricter conditions. It is further alleged that the accused-applicant may assist another main co-accused Jabarjung Singh to abscond, and it has to been brought to note that one application for anticipatory bail of the said co-accused is pending consideration before this Court. Investigation is in progress and the identity of the other offenders is in the process of being established derived largely from scrutiny and scanning of video footage available on social media platforms and CCTV recordings and for the purposes the investigating agency has already availed of 14 days police custody of the accused-applicant. The prosecution alleges involvement of thousands of offenders and it would violate and infringe the fundamental right to life and liberty guaranteed to the accused-applicant if the accused-applicant is denied bail in the present case on such nature of accusations and material only on the ground that the investigating agency is yet to establish the identity of the several other members of the unlawful assembly.

In such totality of the facts and circumstances and upon such considerations, the present application is allowed and accused Sandeep Singh Sidhu @ Deep Sidhu is granted regular bail in Case FIR No.96/2021, subject to his furnishing personal bond with two local sureties in the sum of Rs. 30,000/- each to the satisfaction of the Ld. Trial Court/Duty MM, and upon the condition that he shall deposit his passport with the IO, he shall mention the mobile phone number to be

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used by him and shall ensure that the said number is kept on switched on mode throughout with location activated and shared with the IO at all times, and shall telephonically confirm his location with the IO on the first and fifteenth of each calender month, he shall join investigation as and when called upon to do so and in every manner as required by the IO, he shall scrupulously appear on each and every date of hearing before the Trial Court and shall not delay defeat or interfere with the trial in any manner whatsoever, he shall not influence threaten intimidate witnesses nor tamper with evidence in any manner whatsoever. The sureties and the accused shall not change the verified addresses and respective mobile phone numbers without prior intimation to the IO. Application is disposed of accordingly.


(Neelofer Abida Perveen)
Special Judge: NDPS
ASJ (Central)THC/Delhi
16.4.2021