

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.2061 of 2016

1. Pranesh Anand, aged 19 years (student), S/o Shri Nayan Anand, R/o Shri Ram Nagar, Phase-1, Raipur, P.S. Pandri, District Raipur (C.G.)
2. Dipak Sahu, aged 20 years (student), S/o Shri Parmeshwar Sahu, R/o Sundaripara, Mowa, Raipur, P.S. Pandri, District Raipur (C.G.)
3. Shubham Sahu @ Ghanshyam, aged 18 years (student), S/o Shri Parmeshwar Sahu, R/o Sundaripara, Mowa, Raipur, P.S. Pandri, District Raipur (C.G.)
4. Vikram Pawar, aged 22 years (computer training), S/o Shri Shiv Kumar Pawar, R/o Kushalpur, Near Pankaj Garden, P.S. Purani Basti, Raipur District Raipur (C.G.)

---- Applicants

Versus

State of Chhattisgarh, through the Police Station Vidhan Sabha,
Raipur, District Raipur (C.G.)

---- Non-applicant

For Applicants:	Mr. Somnath Verma, Advocate.
For Non-applicant:	Mr. Avinash Singh, Panel Lawyer.

ANDMisc. Criminal Case No.2142 of 2016

1. Rakesh Verma, aged about 19 years, S/o Surendra Verma, Address – Adarsh Nagar, Mowa, Raipur, District Raipur (C.G.)
2. Raju Pal, aged about 18 years, S/o Suresh Pal, (wrongly mentioned as Surendra Pal in the impugned order), Address – Kanpa, Lodhipara, Raipur, District Raipur (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Station House Officer, Police Station
Vidhansabha, Raipur, District Raipur (C.G.)

---- Non-applicant

For Applicants:	Mr. Arun Kochar, Advocate.
For Non-applicant:	Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board20/04/2016

1. Since both the applications are arising out of the same crime number, they are being disposed of by this common order.
2. The accused/applicants have moved these bail applications under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.72/2016, registered at Police Station Vidhan Sabha, Raipur, for the offence punishable under Sections 147, 452, 323, 295 and 427 read with Section 34 of the IPC.
3. Case of the prosecution, in brief, is that on 6-3-2016 at 11:00 a.m., members of Christian community were offering prayer to Jesus Christ in their prayer hall at Kachna Raipur, the applicants along with other co-accused entered into the said prayer hall shouting slogan "Jai Shriram" forcibly without permission of Pastor Ankush Bariyekar and broken chair, table fan, musical instrument etc., and also damaged the "Pulpit" which is very sacred and symbolizes very important in Christian community and caused hurt to the complainants and other persons who were making prayer, and thereby committed the offences.
4. Learned counsel for the applicants submits that the applicants have not committed any offence and they have been falsely implicated in the case. There is no injury caused to anyone and the applicants have not been identified. Examinations of the applicants are commencing from 22-4-2016 and they have been in jail since 6-3-2016/15-3-2016.
5. Mr. Verma further submits that no identification parade has been

conducted and the applicants have not been identified as culprits. No injury was found over the body of the complainants. The applicants have not been named in the FIR. He also submits that the complainant party has made encroachment over the Government land which has been complained by the father of the applicants to the Zone Commissioner of the Municipal Corporation by memo dated 23-11-2015 and 24-2-2016 and therefore, the applicants have been falsely implicated. Except offence punishable under Sections 452 and 295 of the IPC, all other offences alleged against the applicants are bailable. Since charge-sheets have already been filed, no useful purpose will be served by keeping the applicants in jail, therefore applications be allowed and applicants be released on regular bail.

6. On the other hand, learned State counsel opposes the bail applications and submits that three eyewitnesses namely Hem Kumar, Sanjay Mahilange and Lakeshwar Sahu have seen the applicants committing the incident, breaking the furniture, fans, disturbing the prayer and damaging the pulpit, while members of Christian community were making prayer in the prayer hall. Mr. Avinash Singh, learned State counsel, would further submit that the manner in which the applicants and other co-accused persons entered forcibly in the prayer hall where members of Christian community were offering their prayer to Jesus Christ shouting slogan "Jai Shriram" without leave of Pastor Ankush Bariyekar, and not only broken the furniture and fans but also damaged their "Pulpit", from where a priest stands to speak to the people and which is held sacred by the Christian Community, and as such penal provision Sections 452 and 295 of Indian Penal Code are squarely attracted; therefore

applications for grant of bail deserve to be rejected.

7. I have heard learned counsel for the parties and perused the case diary of the said crime number.
8. The accused persons have been charged for offence punishable under Sections 147, 452, 323, 295 and 427 read with Section 34 of the IPC, and only Sections 452 and 295 of the IPC are non-bailable and others are bailable. The present applicants along with other five accused persons on 6-3-2016 at 11:30 a.m. are said to have entered into the prayer hall, where the complainant-Pastor Ankush Bariyekar along with other members of his community (Christian) were offering prayers and the present applicants along with other co-accused persons all of a sudden entered into the said hall shouting "Jai Shriram" and then broken the chairs, tables and ceiling fan and damaged the "pulpit".
9. At this stage, it would be appropriate to notice Section 295 of the IPC which relates to injuring or defiling place of worship with intent to insult the religion of any class. Section 295 of the IPC reads as follows:-

"295. Injuring or defiling place of worship with intent to insult the religion of any class.—Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

10. Way back, in the year 1958, in the matter of **S. Veerabadrhan Chettiar v. E.V. Ramaswami Naicker and others**¹, Section 295 of the IPC

¹ AIR 1958 SC 1032

came up for consideration and Their Lordships of the Supreme Court have held that Section 295 has been intended to respect the religious susceptibilities of persons of different religious persuasions or creeds and Courts have got to be very circumspect in such matter and to pay due regard to the feelings and religious emotions of different classes of persons with different beliefs and held as under in paragraphs 6 and 7:-

“6. Apart from the question of evidence it is well known fact that the image of Lord Ganesa or any objective representation of a similar kind, is held sacred by certain classes of Hindus, even though the image may not have been consecrated.

7. Any object however trivial or destitute of real value in itself, if regarded as sacred by any class of persons would come within the meaning of the penal section, namely, Section 295. It is not absolutely necessary that the object in order to be held sacred should have been actually worshipped. An object may be held sacred by a class of persons without being worshipped by them

11. Thus, taking into consideration, the ingredients of offences particularly Sections 452 and 295 of the Indian Penal Code, taking into account the broad facts and material brought into case diary, particularly the manner in which the applicants along with the other co-accused persons unauthorizedly entered into the prayer hall, shouting slogan “Jai Shriram”, meant for members of Christian community, where their members were offering prayer and thereby breaking chairs, tables, desk, fans and damaged the pulpit, which is “held sacred” by the members of Christian community and which is a place in the Church/ place of worship, from where clergyman/priest preaches through its preached word, “pulpit” has always had theological as well as aesthetic significance, therefore, it cannot be held that ingredient of Section 295 of the IPC are missing that is injuring or defiling place of

worship with intent to insult the religion of any class, taking note of the gravity of offences under Sections 295 and 452 of the IPC which is non-bailable, further taking into account the severity of punishment prescribed for the aforesaid offences and taking note of nature of accusations and gravity of offences which the applicants are charged, are extremely serious, therefore, in the considered opinion of this Court, it is not proper to order release of present applicants on regular bail for the reasons mentioned herein-above. Accordingly, I hereby decline the prayer for bail made by the applicants. Consequently, both the applications are rejected.

Sd/-
(Sanjay K. Agrawal)
Judge