

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-30665 of 2016

Date of Decision: October 24, 2016

State of Haryana

.....Petitioner

Vs.

Virender Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Kuldeep Tiwari, Addl.A.G., Haryana,
for the petitioner.

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M.M.S. BEDI, J.

This order will dispose of a petition under Section 439 (2) Cr.P.C. filed by the State of Haryana against the order dated March 30, 2016 granting concession of regular bail to respondent Virender Kumar in a case registered on the basis of a complaint dated December 24, 2015 on receipt of a complaint in the office of SP, Rohtak to the effect that the respondent along with others had abetted criminal conspiracy of seditious activities which led to large scale destruction, arson, looting of and vandalizing public and private property resulting in loss of number of innocent lives.

As per the allegations in the FIR, on February 12, 2016 an unlawful assembly was organized for demand of reservation to Jat community at Hisar by blocking Railway track. Another unlawful assembly was formed at Sampla Rohtak on February 14, 2016 by blocking National highway connecting Rohtak Delhi. Thereafter unlawful agitation spread to Jhajjar, Sonapat, Bhiwani, Jind, Hisar, Fatehabad, Panipat, Kaithal, Palwal, Gurgaon, Faridabad and other districts of Haryana Road and Railway tracks at many places were blocked by the agitators. The protests were organized by close associates of Ex-Chief Minister of Haryana. On February 18, 2016, violence erupted in Rohtak City which continued on February 19, 20 and 21 of 2016 in which number of shops, petrol pumps, schools, shopping malls, car show rooms, banks and houses of public were looted by agitators.

So far as respondent is concerned, the allegation against him is that on February 21, 2016 an audio clip was transmitted on Janta TV channel in which the respondent, in the capacity as political adviser of Ex-Chief Minister of Haryana has been asking and provoking Caption Man Singh Dalal (Retd.) spokesperson of Dalal Khap Chaurasi to create looting and disturbing law and order situation in Sirsa area. The petitioner allegedly stated that though the protest is doing well in the area of Rohtak but in general, in Sirsa no reporting is there of protest. The said conversation with respondent Varinder Singh was confirmed by Capt. Man Singh Dalal during telecast. Broadly the allegation against the respondent is that he had provoked the Jat reservation stir and hatched a conspiracy for the unlawful

agitation and sedation. The conversation was made part of the investigation.

The Sessions Judge, Rohtak had granted concession of regular bail to respondent by a detailed order. While granting bail to the petitioner, the trial Court has observed as follows:-

“On the other hand, it is not disputed by the learned Public Prosecutor that till date from investigation and interrogation of the accused- applicant no fact has been discovered to arrive at the conclusion that he had played some role in violence which erupted on account of agitation by the members of Jat community, but he sought dismissal of the application submitting that the case is still at the stage of investigation and the accused- applicant is an influential person and if released on bail, may hamper the investigation.

Having regard to the fact that from the investigation carried out so far and interrogation of the accused-applicant in police custody for ten days no fact could be discovered to prove his involvement in the violence or to show that he had incited/ provoked the agitators to indulge in violence and without further commenting on the merits of the case lest it may prejudice the investigation, I am of the view that the

accused- applicant is entitled to concession of bail. The application is, thus, allowed and he is allowed bail on his furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate, Rohtak. File be consigned to the record room.”

Mr. Kuldeep Tiwari, Addl. Advocate General, Haryana has vehemently contended that the transcript of the audio tape which forms part of the police record is sufficient enough to indicate that the respondent has been an instrumental in the violence which occurred on account of Jat agitation in Haryana. It was contended by counsel for the petitioner that the respondent has incited and provoked the agitators to indulge in violence.

With the assistance of State counsel, I have gone through the record and I am of the opinion that it will be premature at this stage to form an opinion whether the respondent has been involved in the case on account of political vendetta or he had been instrumental in the consequences of the losses caused in Jat agitation. The conspiracy has to be established by relative evidence which is admissible as per the provisions of Section 10 of the Evidence Act. The parameters and considerations for grant of bail and the circumstances which are required to be taken into consideration for cancellation of the bail are absolutely different. The respondent had remained in custody w.e.f. March 17, 2016 before he was granted bail. The trial is likely to take a long time. Keeping the respondent in custody during the entire period of trial will not be appropriate step. No ground is made out

to interfere in the order granting bail to the respondent. No material was brought to the notice of the Court that the respondent has misused his liberty or is capable of tampering with the evidence by abusing his liberty.

Petition is dismissed. Nothing said in the order passed by this Court or the Court below will effect the merits of the case, in any manner.

October 24, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.