

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8378 of 2016

Vikas Khandekar, S/o. Late Vyas Narayan Khandekar, Aged About 42 Years, R/o. Daupara, Mungeli, District Mungeli, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station- City Kotwali, Mungeli, Chhattisgarh.

---- Respondent

For Applicant : Mrs. Hamida Siddiqui with Mr. Raghvendra Verma, Advocate

For Respondent : Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23/01/2017

1. This is the second 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.478/2016 registered at Police Station- City Kotwali, Mungeli (C.G.) for the offence punishable under Sections 295, 295(A), 153(A) & 153(B) of Indian Penal Code and Section 67(2) of Information Technology Act. The first bail application was dismissed as withdrawn on 22.11.2016 in MCRC No.7248 of 2016 with liberty to file afresh before the Trial Court after charge sheet is filed.
2. As per the prosecution case, on 04.10.2016 certain objectionable posts were made in the Facebook wherein certain remarks were made against Goddess Durga, which erupted into breach of peace in the community. Subsequently, the applicant was arrested and investigation was made wherein the Facebook remarks were

seized and because of such Facebook remarks, the breach of peace in between the community took place. Thereby, the offence has been committed.

3. Learned counsel for the applicant would submit that this is the second bail application, the earlier bail application was dismissed on 22.11.2016 with a liberty to file afresh after charge sheet is filed. It is submitted that the charge sheet now has been filed and the bail application, which was filed before the Court below was dismissed. Learned counsel for the applicant places a reliance in case of ***Hardik Bharatbhai Patel v. State of Gujarat***¹ and would submit that the charge sheet has been filed in this case, no further investigation is necessary, absolute peace is prevailing at Mungeli and the applicant is ready and willing to remain outside the District Mungeli for six months or till disposal of trial and while the trial is pending. It is further stated that the applicant will appear before the Court by giving his presence at Police Station Mungeli on each date given by the Trial Court. It is further submitted that all the allegations are politically motivated and no offence actually has been committed, which would be evident from the reply and apology extended by the applicant. She further submits that the post was forwarded and the applicant was not the author of the said Facebook post. It is further submitted that the charge sheet has been filed and no further investigation is necessary, therefore, the applicant may be enlarged on bail in view of the undertaking given by the applicant.
4. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that very presence of the applicant may lead to breach of peace and it may cause riot in between the community which was avoided by intervention of the police. It is

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submitted that for a week, the law and order situation was completely disturbed as Section 144 of Cr.P.C. have imposed. It is further submitted that against the applicant there are 5 to 6 cases to his credit in the like nature of offence, therefore, the applicant may not be released on bail.

5. Perused the case diary and the documents. The charge sheet has been filed in this case. Also perused the undertaking given by the applicant. The offences are triable by the Magistrate. Considering the fact that the charge sheet has been filed and specially taking into the undertaking given by the applicant, I am inclined to release the applicant on bail subject to condition that the applicant undertake to remain outside the District Mungeli till disposal of the trial and further in terms of the undertaking given by the applicant that till the trial is pending, the applicant will appear before the Court by giving his presence before the Police Station Mungeli on each date given by the Trial Court till the trial is concluded.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed and it is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed with the aforesaid conditions.

Sd/-
(Goutam Bhaduri)
Judge