

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM No.M-658 of 2017 (O&M)

Date of decision:24.01.2017

Onkar Nath

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Tarun Vir Singh Lehal, Advocate for the petitioner.

Mr. Abhishek Chautala, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of the instant petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.76, dated 15.08.2016, under Sections 124-A/420/467/468/471 and Section 3 of the National Honour Act, 1971, registered at Police Station Sujampur, District Pathankot.

Counsel for the parties have been heard.

FIR has been registered against Narayan Singh @ Kallu who is alleged to be the Chairman of a publication house where from a newspaper/fortnightly daily is published under the name of 'Chand Aur Suraj'. Allegations are that derogatory remarks have been written on the wall outside the house of Naryan Singh @ Kallu against the Constitution of India and the National Flag has been painted on the wall and alongside certain nails have been affixed and a garland of shoes has been hung. An incorrect registration number of the fortnightly newspaper has been published.

Insofar as the present petitioner is concerned, he is stated to be

the editor of such publication.

During the course of arguments, the final investigation report/challan which was submitted on 15.11.2016 has been read out containing the contents of such publication. It is the contention raised by learned counsel that the offending contents at best amount to healthy criticism of the government of the day and would not fulfill the ingredients of offence under Section 124-A IPC.

Petitioner was arrested on 12.11.2016. Investigation stands concluded, challan has been presented and charges are yet to be framed. The trial, as such, is at the very initial stage and would take time to conclude.

In my considered view, the question as to whether offence under Section 124-A IPC is made out would be a moot question to be considered by the trial Court. No useful purpose would be served by keeping the petitioner in custody. In any case, it is not the case made out on behalf of the State that the petitioner, if granted, benefit of bail would hamper the course of a fair trial.

Without making any observations on merit, petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate, Pathankot.

Disposed of.

24.01.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |