

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34577-2020
Date of decision : 26.11.2020

VIJENDER KUMARPetitioner

Vs.

STATE OF HARYANARespondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Pardeep Sihmar, Advocate for the complainant.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.485 dated 13.08.2020 under Sections 153-A, 295-A and 505 of the Indian Penal Code, 1860 and Section 3(1)(V) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station City Hansi, District Hisar.

The brief facts relevant to the present case are that the FIR was lodged on the complaint made by one Savita Kajal and Kuldeep Bhukkal wherein it has been alleged that Savita Kajal uploaded a post of Baba Saheb Bhimrao Ambedkar on her Facebook ID and VijenderSarsawa(petitioner herein) made insulting and objectionable comments on the post to create disharmony in the society. It is further the allegation that petitioner uses filthy language and makes objectionable comments against females belonging to Scheduled Castes. It is also the allegation that insulting comments have been made by the petitioner against Muslim women.

Learned counsel for the petitioner contends that the ingredients of Section 153 A, 295-A and 505 are not made out in the present case and he has been in custody since 24.09.2020.

Status report has been filed by way of an affidavit of Vinod Shanker, HPS, Deputy Superintendent of Police, City Hansi, District Hisar wherein it has been stated that the investigation in this case was conducted by the Deputy Superintendent of Police, Hansi. On 31.08.2020, the petitioner joined investigation and on 22.09.2020 the complainants Savita Kajal and Kuldeep also joined the investigation and the statements were recorded under Section 161 CrPC. The complainants produced photocopy of the derogatory comments posted by the petitioner on Facebook which were taken into possession by the Police vide separate memo. On 24.09.2020, the petitioner again joined investigation and, thereafter, on the basis of sufficient evidence, he was arrested. Along with the status report the photocopies of the screen shots of the various posts as posted by the petitioner on Facebook have also been annexed.

A bare perusal of the screen shots of the said posts *prima facie* reveals that the posts are not only derogatory in nature but are made against particular communities. In fact, the petitioner along with the petition has appended as Annexure P-2 just one of the posts whereas a number of posts as made by the petitioner have been attached with the status report. The Court is refraining itself from commenting on the nature of the posts made by the petitioner herein at this stage. Suffice it to say that freedom of speech does not entitle a person to make derogatory remarks/posts against any community or gender.

In view of the above, I do not find this to be a fit case for grant of regular bail. The same is hence, dismissed. It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

November 26, 2020
kv

(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No