

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

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CRA-S-1725-2023 (O&M).**Date of Decision: 15.06.2023.****Bhana Sidhu @ Kaka Singh Sidhu @ Bhagwan Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present: Mr. Parminder Singh Sekhon, Advocate, and
Mr. Rajdeep Singh Gill, Advocate, for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

VINOD S. BHARDWAJ. J (ORAL)**CRM-26399-2023**

The instant application has been filed under 482 of the Code of Criminal Procedure, for seeking exemption from filing certified copies of impugned orders Annexures A-1 and A-2 passed by the Additional Sessions Judge, Palwal.

The application is allowed as prayed for.

Main case

The present appeal has been filed for seeking concession of regular bail in FIR No.28 dated 11.05.2023, registered under Sections 189, 355, 506 and 201 of the Indian Penal Code, 1860 and under Section 3 (1) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Mehal Kalan, District Barnala.

Learned counsel for the petitioner submits that inadvertently Section 500 of the Indian Penal Code could not be

mentioned in the first paragraph of the petition as well as in the prayer clause which is also one of the offences and finds mention in the order passed by the Additional Sessions Judge, Barnala. He thus prays that for Section 500 of the Indian Penal Code be read and permitted to be mentioned in the first paragraph of the petition as well as in the prayer clause.

The prayer is accepted. Section 500 of the Indian Penal Code is ordered to be read in first paragraph of the petition as well as in the prayer clause. An amended page reflecting correct sections in first paragraph as well as in the prayer clause of the appeal shall also be filed by the appellant with the Registry.

Learned counsel for the petitioner contends that the FIR in question had been registered against the petitioner by one Gurmail Singh who was posted in Police Station Mehal Kalan, District Barnala and moved an application averring that the appellant is running a you tube channel and on 04.05.2023, he had telephonically called the complainant from Australia on his number and used casteist remarks and has been threatening the police and the administration in the said phone call. He further contends that the allegation levelled is that the appellant has been threatening the administration of severe retaliation and has been undermining the authority of the police and the administration. Counsel for the petitioner further contends that a perusal of the FIR fails to make out any case under the provisions of the the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, as no casteist remarks are stated to have been uttered in public hearing and public

domain. The allegations having been raised that the casteist remarks were made through a telephonic call to the respondent would take it out of the purview of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He further submits that the appellant is in custody since 15.05.2023 and that out of three cases stated to be registered against him, in two cases which are in relation to bailable offences, he is already on bail and in one case he has been acquitted. It is argued that the institution of the present case is only because the petitioner runs You Tube channel where he has been highlighting the misdeeds as well as incidents of mis-governance and that the present case has been registered as a counter blast to silence the voice of critics.

Learned State counsel, however, contends that the petitioner has been uploading videos on his You Tube channel wherein he has been making utterances against the Government and has been threatening the administration thus provoking the public. It is, however, not in dispute that the petitioner is in judicial custody since 15.05.2023. It is also not disputed that the challan has been presented, however, the charges have not been framed so far and there are 13 witnesses cited by the prosecution who are required to be examined.

I have heard the learned counsel for the respective parties and have gone through the paper book along with the documents appended therewith.

Taking into consideration the fact that the charges in the present case are yet to be framed and 13 witnesses cited by the

prosecution are required to be examined before the trial can be concluded and also the contention of the petitioner that the offence in question could not be attracted as per the allegations leveled in the FIR as no such utterances were ever made in public domain. The said disputed questions of fact are yet to be examined by the competent Court. It is also not in dispute that the further custodial interrogation of the petitioner is not required as nothing is to be recovered and investigation of the case is already complete.

Accordingly, the instant petition is allowed and the petitioner is ordered to be admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

June 15, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No