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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-44498-2023 (O&M)****Date of Decision:20.12.2023**

Kamalpreet Singh Saini

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.ShekhawatPresent: Mr. Pradeep Virk, Advocate
for the applicant/petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. Puran Singh Hundal, Sr. Advocate with
Mr. Gursahib Singh Hundal, Advocate
for the complainant.

N.S.Shekhawat J.**CRM-53908-2023**

1. Application is allowed as prayed for, subject to just all exceptions.

Main case

1. While issuing notice of motion on 18.09.2023, this Court had noticed the following contentions on behalf of learned counsel for the petitioner:-

The FIR in the present case was got registered by Bhagwant Singh, Manager, Shri Darbar Sahib, Shri Amritsar under the Shiromani Gurudwara Parbandhak Committee (hereinafter referred to as the "SGPC"), which is an institution constituted since long to govern the affairs relating to Sikh religion, which was constituted under the SGPC Act, 1925. As per the complainant, Kamalpreet Singh Saini, the petitioner had published one video on his youtube channel in order to humiliate and defame their institution and had used derogatory and defamatory words in

the said video against the officials, workers and the Presidents of SGPC. The accused straightway used very derogatory and defamatory remarks towards SGPC by calling it as “Special Group of Professional Criminals” and “Sire Di Gand Pakhand Committee, despite the fact that actually the full form of SGPC is Shiromani Gurudwara Parbandhak Committee”. The accused had also called the entire staff members of SGPC as “Gundas”, “Gatia Masand” and had uttered bad words against Gatrass, Chollas by saying that “Gatre Chollan Wale Gunde” and also called the Committee “Gundian Nu Tankhaha Dein Wali Committee”. In the said video, the accused also tried to create false evidence against SGPC through one of his supporters and also demanded money from the devotees for that person. The accused called the Granthies of SGPC as well its President as Siri and also stated that “Tusi AC Camrian vich Kanjrian nachao Te Lokan Nu Kaho Ki Tusi Bhaicharak Sanju Bana Ke Rakho” and also stated that the Committee appointed all the Managers, who are Gundas and also stated that “Tusi Sarkari Dalal Panthak Chole Pa Ke Sikhi Nu Thah Lal Rahe Ho”. He used defamatory words against the Free Kitchen (Guru Ka Langar) being run under the supervision of SGPC and had levelled false allegations without any sufficient and strict proof. Thus, the religious sentiments of all the Sikhs were hurt. This act of accused is insulting towards the image of Sikhism across the world and the deliberate and malicious act was an attempt attributed to the accused with an intention to outrage the religious feelings of Sikh Community. Even the video was uploaded without verification of the facts. The motive of the accused was to hurt religious feelings and damage their religious high temporal seats and administration and officials, established by Holy Guru Sahibs. Even the said videos were false, frivolous and fabricated and he has been continuously uploading such kind of videos and was trying to defame the SGPC, its officials, its managers, employees and secretaries without any reason and strict proof

thereof. Such act also hurts the religious sentiments of Sikh community and its followers and defame the Sikhism in general public at large as SGPC was the only institution to protect the Sikhism in the whole world. With these broad allegations, the FIR in the present case was got registered by the complainant.

Learned counsel for the petitioner submits that the petitioner is a journalist, who started his career in the year 1997. The petitioner worked with various news channels in different capacities and he had started two another youtube channels in the name and style of Akhand Bani Panthak Media and Preet Singh Saini. Learned counsel further contends that the petitioner himself is a staunch Sikh, believing and following the tenets of Sikhism, enunciated by the Holy Sikh Gurus. Being a press reporter by profession, it was the duty of the petitioner to get the truth revealed before the Sikh society for its betterment through youtube channel. Learned counsel further contends that the petitioner had uploaded the videos on his youtube channel, against the high officials/office bearers/public employees of SGPC, only with a view to make the Sikh Sangat aware about the vices affecting the SGPC. He further contends that nothing has been said by him in his videos posted on his youtube channel, which insulted the Sikh religion or otherwise outraged the religious feelings of Sikh community, rather the videos were uploaded by him only with the intention to highlight the malpractices prevalent in the working of "SGPC". He further contends that the present FIR was also not lodged by the Sikh community, but it was lodged at the instance of the Manager of SGPC and till date, no complaint has been made by any Sikh anywhere in his private capacity. Learned counsel further contended that the petitioner had collected evidence regarding the mal-practices and the corruption being conducted by the members of SGPC, which was being ignored by the senior officers of the SGPC. Consequently, the petitioner was left with no other option,

but to highlight the illegal acts committed by the members, employees and officials of the SGPC. Learned counsel further contended that even from the contents of his speech on youtube, it is evident that he had not uttered even a single word against Sikh religion or the religious beliefs of Sikhs and nor he ever tried to outrage the religious sentiments of Sikh Sangat. He further contended that no sanction was obtained under Section 196 Cr.P.C before the registration of the FIR and the FIR itself was not maintainable against him. Learned counsel further contended that similar news items, accusing the SGPC and its officials as well as its employees were published in Daily Punjabi Newspaper "Pehredar", but the SGPC officials did not initiate any action against him.

Learned counsel for the petitioner further contended that no action was taken by the SGPC administration on the complaint submitted to it by various persons. Even the petitioner had covered the cases, wherein complaints given by the public, were not examined nor inquired into by the office bearers of the SGPC. Consequently, after making complaints to SGPC, such disillusioned persons had approached the petitioner with the evidence, which they had collected and the petitioner had only stated those facts in his youtube videos and had no intention to hurt the religious sentiments or beliefs of Sikhs. Still further, whatever the petitioner had posted on his online channel, the said record is available with the investigating agency. Apart from that, till date, the police could not point out as to how the religious feelings of Sikhs were hurt by the occurrences made by the petitioner. Consequently, the custody of the petitioner is not required and he is not in a position to tamper with the evidence, which is already available on record. Even, no offence under Section 295-A IPC is made out against the present petitioner.

2. The arguments made by learned counsel for the parties have been

heard at length today again.

3. Learned counsel appearing on behalf of the petitioner has reiterated the above submissions before this Court. Learned counsel further submits that the in compliance of the interim order passed by this Court, the petitioner has repeatedly joined the investigation and has replied to all the inquiries put to him by Investigating Agency. He further contends that the petitioner is ready to co-operate with the Investigating Agency, even after the grant of bail.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had used the derogatory and insulting words for the Sikh community. Moreover, the petitioner had referred to certain sacred Sikh symbols like Beard, Kirpan, Chola, Nishan Sahib etc., during his speech on the youtube channel and the utterances made by the petitioner not only hurted the feelings of SGPC, but also the Sikh community. It was also contended that the custodial interrogation of the petitioner is required only to ascertain the fact as to how many videos have been uploaded by the petitioner. Learned State counsel further submits that the voice sample of the petitioner was yet to be collected by the police and even the mobile of the petitioner was yet to be recovered. Thus, the petitioner was not entitled for grant of relief of anticipatory bail.

5. In reply to the abovementioned submissions made by learned State counsel, learned counsel for the petitioner submits that the petitioner shall handover his mobile phone to the Investigating Agency within a period of 1 week from today. He further submits that the police may move an application in this regard before the Area Magistrate/Duty Magistrate and he

shall handover his mobile phone to the police. Still further, the petitioner is ready to give his voice sample to any expert appointed by I.O and the petitioner is entitled to the concession of anticipatory bail.

6. I have heard learned counsel for the parties and perused the record.

7. In fact, the custody of the petitioner was required by the police for two reasons i.e obtain the mobile phone of the petitioner and to collect the voice sample of the petitioner, however, the petitioner is ready to handover his mobile phone to the police within a period of 01 week from today in the Court of Area Magistrate/Duty Magistrate and the petitioner is also ready to give his voice sample.

8. Thus, no purpose would be served by sending the petitioner behind the bars. Even otherwise, learned State counsel has also admitted the fact that the petitioner has already joined the investigation and his custody is not required for any other purpose, except the above mentioned two purposes.

9. In view of the above statement made by learned State counsel, the interim order dated 18.09.2023 is made absolute. The petitioner shall continue to join the investigation, as and when called by the Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438 Cr. PC.

20.12.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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

