

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:112406
CRM-M-51297-2022
Date of Decision: August 28, 2023

Saudagar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Gagandeep Singh Virk, Advocate for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J.(Oral)

Prayer in this petition is for grant of regular bail in case FIR No.69, dated 06.06.2022, under Sections 121, 121-A of IPC, registered at Police Station Division-E, Police Commissionerate, Amritsar District Amritsar.

2. Allegations against the petitioner are that he delivered a speech near Shree Nishan Sahib uttering the following words:-

“Referendum Zindabad, Khailstan Zindabad”.

3. Learned counsel contends that even if the allegations made in the FIR taken at its face value, they will not attract Section 121 or 121-A IPC. Still further, it is contended that these provisions have been intentionally invoked by the State, since Section 124-A IPC could not have been invoked, as its operation had been stayed by the Hon’ble Supreme Court in *“S.G. Vombatkere v. Union of India”* [Writ Petition (C) No.682 of 2021, announced on 11.05.2022].

Sections 121, 121-A and 124-A IPC read as under:-

“121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India –Whoever, wages war against the Government of India, or attempts to wage such war, or

abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine. A joins an insurrection against the Government of India. A has committed the offence defined in this section.

121A. Conspiracy to commit offences punishable by section 121.

--Whoever within or without India conspires to commit any of the offences punishable by section 121, or conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.

124A. Sedition. *--Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine."*

4. Having regard to the nature of attribution against the petitioner, it is highly debatable as to whether Sections 121 or Section 121-A will be applicable in this case or not.

5. As per the custody certificate placed on record by learned State counsel, petitioner is in custody for the last 01 years, 02 months and 17 days.

6. Learned State counsel has not disputed the aforesaid facts to the effect that only attribution to the petitioner is to have raised slogans of "*Referendum Zindabad, Khailstan Zindabad*".

7. Having regard to the aforesaid facts and circumstances, but without commenting anything on the merits of the case, the petitioner is admitted to regular bail and he is ordered to be released on bail on his

furnishing bail bonds and surety bonds to the satisfaction of learned Trial
Court/Duty Magistrate concerned.

Allowed.

August 28, 2023

sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No