



In The High Court for the States of Punjab and Haryana
At Chandigarh

CRA-D-285-2023 (O&M)
Date of Decision:- 23.08.2024

Prem Singh Appellant

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE GURBIR SINGH

Present:- Mr. Amit Puri, Advocate, for the appellant.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Partap Singh.

FIR NO.	DATE	POLICE STATION	OFFENCES
148	15.07.2022	Kotwali, Patiala	153-A, 153-B, 120-B IPC, Section 3 of Prevention of Defacement of Property Act, Section 13 of Unlawful Activities (Prevention) Act 1967 and Section 18 of Unlawful Activities Amendment Orders Act

GURVINDER SINGH GILL, J. (Oral)

1. The instant appeal has been filed on behalf of the appellant seeking grant of regular bail in respect of aforementioned FIR.



2. The FIR was lodged on the statement of ASI Babu Lal wherein he alleged that on 14.7.2022 when he along with HC Gurpiar Singh was on duty and were present near public toilet block situated on the backside of Sri Kali Mata Temple, Patiala then he noticed a yellow coloured banner pasted on a wall on which 'SFJ' and 'HUL Khalistan Referendum 26 January' was printed with black ink. ASI Babu Lal immediately informed the police Station Kotwali, Patiala and the posters were got removed and were taken into possession.
3. Compliance report by way of affidavit of Ms. Mandeep Kaur, Deputy Superintendent of Police, City-1, Patiala has been filed. The same is taken on record. A copy of the short reply has been furnished to learned counsel opposite.
4. It is further the case of prosecution that during the course of investigation statement of one Ashutosh Gautam, General Secretary Hindu Suraksha Samiti was recorded on 19.7.2022 who stated that Gurpatwant Singh Panu is running the organization namely 'Sikhs for Justice' (SFJ) which has been declared as illegal and it is the said organization which usually commits such acts so as to incite communal strife. Ashutosh Gautam further stated that Harvinder Singh @ Prince along with Prem Singh (appellant) had pasted the said banners on the night intervening of 14th and 15th of July 2022 and that after pasting the banners they had taken photographs and had sent the same to Gurpatwant Singh Panu through WhatsApp who had further posted the same on social media and had made it viral so as to create communal disharmony and also to misguide the youngsters.



Said Prem Singh and Harvinder Singh were consequently nominated as accused by recording DDR on 19.7.2022.

5. It is further the case of prosecution that on 19.7.2022 the aforesaid accused were arrested and 14 similar banners were recovered from their possession. Subsequently, on 20.7.2022 Gurpatwant Singh Pannu was also nominated as an accused. It is further the case of prosecution that during the course of investigation it was found that the aforesaid accused were regularly in touch with Gurpatwant Singh Pannu.
6. It is further the case of prosecution that a motorcycle used by the accused for committing the offence had been purchased by them out of an amount of Rs.25,000/- sent to them by Gurpatwant Singh Pannu and that the appellant has made a disclosure statement that after spending some amount out of the said Rs.25,000/- he had buried an amount of Rs.800/- in the grounds behind '*dargah*' of the '*Peer*'.
7. Learned counsel for the appellant submits that he has falsely been implicated in the present case and as a matter of fact there is no eye witness to the alleged occurrence and the appellant is sought to be nominated solely on the basis of statement of one Ashutosh Gautam recorded after 4 days of the occurrence. Learned counsel further submits that no reliance can be placed even on the alleged disclosure statement made by accused regarding receipt of amount from Gurpatwant Singh Pannu inasmuch as it is highly unlikely that the



appellant would have buried a meager amount of Rs.800 in the ground.

8. Learned counsel further submits that in the present case the sanction for prosecution was received after almost one year of the said occurrence and as of now despite a period of about 2 years having elapsed, the trial has not even commenced inasmuch as even the charges have not been framed.
9. Opposing the appeal, learned State counsel submits that it is a case where serious offences has been committed by the appellant including offence under UAPA. It has further been submitted that the appellant stand involved in two other cases for offences including offence under Section 307 IPC and another case under UAPA. Learned State counsel has not disputed the fact that the appellant has been behind bars since the last more than 2 years and as on date even charges have not been framed.
10. This Court has considered the rival submissions addressed before this Court.
11. While it is true that it is a case where serious allegations have been levelled against the appellant, but at the same time it is a case where nobody had seen the appellant pasting the banners in question. In any case, it is a matter of evidence as to whether the offence had been committed by the appellant or not. The appellant otherwise has been behind bars for a substantial period of more than 2 years. The trial has not even commenced inasmuch as even charges have not been



framed. Thus, it goes without saying that even if charges are framed, the conclusion of trial is likely to take time. The appellant cannot be kept behind bars for an indefinite period and a period which is uncertain inasmuch as the trial has not even commenced till date. A Co-ordinate Bench of this Court in CRA-D-5-2023 Manjeet Singh Vs. State of Punjab in somewhat identical circumstances, granted bail to an accused charged with offences under UAPA wherein he had been behind bars for about 1 year and 9 months. In view of the discussion made above, we find it to be a fit case for grant of regular bail. The appeal as such, is accepted and the impugned order dated 27.9.2022 is hereby set aside and the appellant is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(GURVINDER SINGH GILL)
JUDGE

23.08.2024
mohan

(GURBIR SINGH)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No