

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

Sr. No.226

**CRA-D-1041-2023 (O&M)
Date of decision : 01.05.2024**

Kulwinder Singh @ Binder

..... Appellant

VERSUS

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Mitul Singh Rana, Advocate for the appellant.

Mr. H.S. Sullar, Sr. DAG, Punjab.

ANUPINDER SINGH GREWAL, J. (Oral)

The appellant has challenged the order dated 27.07.2023 passed by the learned Additional Sessions Judge, Sangrur whereby his bail application under Section 439 Cr.P.C. in FIR No.118 dated 27.06.2022 registered at Police Station City Sangrur, under Sections 153-A, 153-B, 120-B, 427 IPC, Sections 13 & 18 of Unlawful Activities (Prevention) Act, 1967 (for short 'the UAPA') and Section 3 of Punjab Prevention of Defacement Property Act, 1997 (for short 'the PPDP Act') has been declined.

2. Learned counsel for the appellant submits that the appellant was not named in the FIR which was registered as objectionable slogans were allegedly painted on the shutters of the shops and other places in Sangrur. He was arraigned as an accused on the statement of co-accused and is alleged to have painted the slogans. A recovery of only a bottle of spray paint had been effected and no other incriminating material whatsoever have

been recovered from appellant. He has not been linked to any dubious monetary transaction as well. The appellant is not involved in any other criminal case. He further relies upon the judgment of the Rajasthan High Court in the case of **Lovepreet Singh and another Vs. State of Rajasthan Through Public Prosecutor**, in support of his submission that simply uttering words 'Khalistan Zindabad' would not *ipso facto* attract offence under the UAPA.

3. Learned State counsel filed custody certificate which indicates that the appellant has undergone an actual sentence of 01 year, 09 months and 24 days. He submits that in view of the serious allegations against him of having painted objectionable slogans, the appellant is not entitled to the concession of regular bail. The charges have been framed but no prosecution witness has been examined till date.

4. Heard.

5. The allegations against the appellant are that he had painted allegedly secessionist slogans on the shutters of the shops and other places in the Sangrur city. He was not named in the FIR and the only recovery which has been effected from him is a bottle of spray paint. There is no other incriminating material either in the form of dubious monetary transaction or recovery of fire arms from him. In view of the judgment of the Rajasthan High Court in case **Lovepreet Singh (supra)**, it would be debatable as to whether offence under sections 13 and 18 of UAPA would be made out. At this stage, it is difficult to arrive at the conclusion that there are reasonable grounds for believing that the accusations against the appellant with regard to offences under the UAPA are *prima facie* true. The charges have been framed but out of 36 prosecution witnesses none of them has been examined

in custody for 01 year, 09 months and 24 days. We do not find that further incarceration is justified at this stage. We, therefore, deem it appropriate to allow the appeal and grant the concession of regular bail.

6. Consequently, the appeal is allowed. The impugned order dated 27.07.2023 passed by the learned Additional Sessions Judge, Sangur is set aside. The appellant is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Judge concerned.

7. Pending miscellaneous application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(KIRTI SINGH)
JUDGE

01.05.2024
Ramandeep Singh

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