

CRM-M-61896-2023

2023:PHHC:166286

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM-M-61896-2023

Date of Decision : January 11, 2024

Rakesh Kumar @ Rakesh Bhasin

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Deepak Arora, Advocate for the petitioner.
Mr. M.S.Bajwa, DAG, Punjab.

KULDEEP TIWARI, J.

1. Through the instant petition filed under Section 438 Cr.P.C., prayer is made for grant of anticipatory bail to the petitioner in case FIR No.315 dated 5.11.2023 under Sections 153-A/295-A/298/506 of IPC, registered at Police Station Sadar Amritsar, District Police Commissionerate, Amritsar.

2. The prosecution agency was set into motion on a secret information received by the SHO concerned, which led to the registration of the instant FIR. The allegations as encompassed in the instant FIR are that on 5.11.2023, the petitioner while giving a provocative speech on the death anniversary of one Sudhir Suri, Shiv Sena Taksali had threatened to kill the person, who had dead shot the aforesaid Sudhir Suri, upon his appearance before the Court and the petitioner also offered his property as a prize to the person, whosoever will kill the person culpable for the death of Sudhir Suri. On the basis of the aforesaid secret information, FIR(supra), was registered against the petitioner.

3. Learned counsel for the petitioner submits that the petitioner

has no malicious intentions and has not deliberately used the provocative words, therefore, the provisions of Sections 295-A/298 of IPC, are not attracted. He further submits that the petitioner is a National Chairman, Shiv Sena Suryawanshi and had been addressing the speech on the death anniversary of Sudhir Suri, who was shot dead by a person allegedly having the backup and support of some terrorist organization and the petitioner while delivering the speech in emotion made the provocative speech. He further submits that the petitioner did not speak any word against any religious community, therefore, he may be given the concession of pre-arrest bail.

4. The asked for relief has been opposed by the learned State counsel, who drew the attention of this Court to the allegations against the petitioner, where the petitioner gave a provocative speech to kill a person, who had shot Sudhir Suri, upon his appearance before the Court and also offered his property as a prize to the person, who will kill the culprit of the death of said Sudhir Suri. He further submits that the provocative speech, was deliberately made to create tension among the two communities and the video, which was recorded during the alleged speech was made viral on social media.

5. This Court has considered the submissions made by both the learned counsel for the parties and perused the entire record.

6. It is a case, where one Sudhir Suri was shot dead, who belongs to one group of Shiv Sena Taksali and on his death anniversary, the present petitioner had made a provocative speech to shot down one of

the accused, namely, Sandeep Singh, who was facing trial for the murder of Sudhir Suri. The petitioner not only made a provocative speech to shot down the person, but also offered his property as a prize, to the person, who will accomplish the said act. The allegations against the petitioner are serious in nature. No person can be allowed to disturb the peace of the society and create disharmony among the two religious communities. This kind of act needs to be deprecated with strict hands and the same cannot be allowed to perpetuate by giving the benefit of extra ordinary relief of pre-arrest bail.

7. Considering the fact that the petitioner, who is an active member of one of the groups, namely, Shiv Sena and has active in social life, deliberately tried to provoke the people to cause the murder of the accused, who is to appear before the Court to face the trial, cannot be appreciated.

8. In view of the above discussion, the instant petition is, hereby, dismissed.

9. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

January 11, 2024
ajay-1

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No