

FIR no. 152/2021
PS Connaught Place
State Vs. Preet Singh
U/s 188/269/270/153A IPC,
S. 3 Epidemic Diseases Act &
S. 51 (b) DM Act

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In view of the directions of the Hon'ble High Court of Delhi vide order No. 439-470/RG/DHC-2021 dated 22.07.2021, matters are being taken up through video conferencing using Cisco Webex. It is certified that there was no interruption during the proceeding and all the parties were heard.

Present: Sh.Kartikay Sharma, Ld. APP for the state.

Sh. Ashwani Kumar Dubey, Sh. Nirmal Kumar Amabastha, Sh. Manish Kumar, Sh. Avadh Kaushik, Sh. Rudra Pratap Singh, Sh. Vikram Singh, Sh. Rakshpal Singh, Sh. Vinay Gaur and Sh. Yashveer Singh, Ld. Counsels for the applicant/accused.

SHO/Insp. Inder Kumar Jha & IO/SI Ramkesh Meena, PS Connaught Place.

This is an application for grant of bail u/s 437 CrPC to the applicant/accused namely Preet Singh.

Reply has been filed by IO wherein the IO has vehemently opposed the bail application on the ground that according to CDR report, as of now, accused was present on the spot at or around 2 pm. Presence of accused is confirmed through obtained video footage. Release of applicant/accused will be prejudicial in maintaining public tranquillity and will further create serious law and order situation. There are chances that the applicant/accused will create communal disharmony.

Sh. Ashwani Dubey, Ld. Counsel for the applicant/accused submits that from the reading of FIR nothing inculpatory can be ascertained even prima

facie against the applicant/accused. The FIR is lodged against unknown persons, applicant/accused is not even named in the said FIR. Applicant/accused was not even present in the gathering at the time when allegedly offence u/s 153A was committed. Ld. Counsel has also placed reliance upon the order dated 11.08.2021 passed by this Court by virtue of which bail was granted to the other accused allegedly involved in the present matter who had acted in a bonafide manner and had duly offered his assistance to the Investigating Agency.

Sh. Avadh Kaushik, Ld. Counsel for the applicant/accused submits that there is delay in registration of FIR which hampers the case of the investigating agency in itself. That the applicant/accused has been falsely implicated in the present matter, and even after arrest, applicant/accused was taken to unknown place. Ld. Counsel submits that this is a clear case of atrocity committed by the police on innocent citizens.

Other Ld. Counsels appearing for the applicant/accused submitted on similar lines and claimed release of the applicant/accused on the ground of *parity*.

Per Contra, Ld. APP for the State submits that the gathering was held without any permission and was held near the Parliament during its ongoing Moonsoon Session. That applicant/accused violated the guidelines issued to contain the spread of COVID-19 pandemic, and also Section 144 CrPC which was applicable in that place during that time. Ld. APP for the State submits that it is a clear case of involvement of applicant/accused as the event was organized at the behest of the applicant/accused and thus, an offence u/s 153A was committed in the presence of the applicant/accused.

Heard both sides at length. Perused the record.

The ***Hon'ble Supreme Court in Prahlad Singh Bhati vs NCT Delhi AIR 2001 SC 1444*** held that while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and

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standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce *prima facie* evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

Indeed it is difficult time for everyone during this pandemic and serious view should be taken against those who violate the guidelines/restrictions to contain the spread of COVID-19 pandemic, yet the offences as far as breach of these guidelines are concerned are bailable in nature, which can be dealt by the Trial Court on merits.

As far as the offence u/s 153A IPC is concerned, even though from perusal of the FIR no specific allegation against the applicant/accused can be ascertained and that, even the FIR is silent with regard to commission of offence u/s 153A IPC, yet *prima facie* perusal of all the material available on record including the alleged video footage, fails to find support in favour of the applicant/accused. This Court has seen the alleged video clippings and played some part of it in Open Court also. In one of the clippings, applicant/accused, as identified by the IO in the video clipping, can be seen with the other accused Deepak Singh, who in one of the video clippings has made scathing remarks which are undemocratic and uncalled for from a citizen of this country where principles like Secularism hold the value of basic feature imbibed in the Constitution. Freedom to express oneself is indeed allowed to be enjoyed by the citizens to the fullest possible extent, yet with every right there is a corresponding duty attached. The principle behind Section 153A IPC is to preserve religious/communal harmony and it is the duty of every citizen that

while he enjoys his right to express himself, he preserves religious harmony. This indeed is the positive aspect of Secularism.

This Court at this stage cannot check the veracity of these video clippings which is a matter of appreciation of evidence to be done at later stage. Besides, there is no *time stamp* available at this stage on these video clippings for which proper investigation is required. This Court cannot interfere with the ongoing investigation.

With regard to ground of parity, for applicability of the same it has to be seen whether the accused stands on same footing as the accused already released on bail. It is agreed that there was no specific allegation even against the other accused (released on bail) in FIR. The other accused (released on bail) however, was neither seen in any of the alleged video clippings nor it was *prima facie* seen that any such act was committed at his behest. Even from the CDR, other accused (released on bail) was present on the spot only till 11 AM; this however, is not the case of the applicant/accused. On *prima facie* perusal of record, the present applicant/accused stands on a different footing from the other accused (released on bail).

Considering the fact that investigation of the present case is at a nascent stage, the nature of accusations levelled against the accused persons and also taking into account the overall facts and circumstances of the case, this court is not inclined to allow the present application at this stage. Accordingly, application stands dismissed.

In view of the above, present application stands disposed of. Proceedings be sent to the Court concerned through proper channel.

Copy of the order be sent to Ld. Counsel for the applicant/accused through email/whatsapp.

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Kumar Jain

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(UDBHAV KUMAR JAIN)

Link MM/PHC/NDD/12.08.2021

FIR no. 152/2021
PS Connaught Place
State Vs. Deepak Singh
U/s 188/269/270/153A IPC,
S. 3 Epidemic Diseases Act &
S. 51 (b) DM Act

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SHO/Insp. Inder Kumar Jha & IO/SI Ramkesh Meena, PS Connaught Place.

This is an application for grant of bail u/s 437 CrPC to the applicant/accused namely Deepak Singh.

Reply has been filed by IO wherein the IO has vehemently opposed the bail application on the ground that according to CDR report, as of now, accused was present on the spot at or around 2 pm. Presence of accused is confirmed through obtained video footage. Release of applicant/accused will be prejudicial in maintaining public tranquillity and will further create serious law and order situation. There are chances that the applicant/accused will create communal disharmony.

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facie against the applicant/accused. The FIR is lodged against unknown persons, applicant/accused is not even named in the said FIR. Applicant/accused was not even present in the gathering at the time when allegedly offence u/s 153A was committed. Ld. Counsel has also placed reliance upon the order dated 11.08.2021 passed by this Court by virtue of which bail was granted to the other accused allegedly involved in the present matter who had acted in a bonafide manner and had duly offered his assistance to the Investigating Agency.

Sh. Avadh Kaushik, Ld. Counsel for the applicant/accused submits that there is delay in registration of FIR which hampers the case of the investigating agency in itself. That the applicant/accused has been falsely implicated in the present matter, and even after arrest, applicant/accused was taken to unknown place. Ld. Counsel submits that this is a clear case of atrocity committed by the police on innocent citizens.

Other Ld. Counsels appearing for the applicant/accused submitted on similar lines and claimed release of the applicant/accused on the ground of *parity*.

Per Contra, Ld. APP for the State submits that the gathering was held without any permission and was held near the Parliament during its ongoing Moonsoon Session. That applicant/accused violated the guidelines issued to contain the spread of COVID-19 pandemic, and also Section 144 CrPC which was applicable in that place during that time. Ld. APP for the State submits that it is a clear case of involvement of applicant/accused as the event was organized at the behest of the applicant/accused and thus, an offence u/s 153A IPC was committed in the presence of the applicant/accused.

Heard both sides at length. Perused the record.

The ***Hon'ble Supreme Court in Prahlad Singh Bhati vs NCT Delhi AIR 2001 SC 1444*** held that while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and

standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce *prima facie* evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

Indeed it is difficult time for everyone during this pandemic and serious view should be taken against those who violate the guidelines/restrictions to contain the spread of COVID-19 pandemic, yet the offences as far as breach of these guidelines are concerned are bailable in nature, which can be dealt by the Trial Court on merits.

As far as the offence u/s 153A IPC is concerned, even though from perusal of the FIR no specific allegation against the applicant/accused can be ascertained and that, even the FIR is silent with regard to commission of offence u/s 153A IPC, yet *prima facie* perusal of all the material available on record including the alleged video footage, fails to find support in favour of the applicant/accused. This Court has seen the alleged video clippings and played some part of it in Open Court also. In one of the clippings, applicant/accused, as identified by the IO in the video clipping, can be seen making scathing remarks which are undemocratic and uncalled for from a citizen of this country where principles like Secularism hold the value of basic feature imbibed in the Constitution. Freedom to express oneself is indeed allowed to be enjoyed by the citizens to the fullest possible extent, yet with every right there is a corresponding duty attached. The principle behind Section 153A IPC is to preserve religious/communal harmony and it is the duty of every citizen that while he enjoys his right to express himself, he preserves religious

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With regard to ground of parity, for applicability of the same it has to be seen whether the accused stands on same footing as the accused already released on bail. It is agreed that there was no specific allegation even against the other accused (released on bail) in FIR. The other accused (released on bail) however, was neither seen in any of the alleged video clippings nor it was *prima facie* seen that any such act was committed at his behest. Even from the CDR, other accused (released on bail) was present on the spot only till 11 AM; this however, is not the case of the applicant/accused. On *prima facie* perusal of record, the present applicant/accused stands on a different footing from the other accused (released on bail).

Considering the fact that investigation of the present case is at a nascent stage, the nature of accusations levelled against the accused persons and also taking into account the overall facts and circumstances of the case, this court is not inclined to allow the present application at this stage. Accordingly, application stands dismissed.

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FIR no. 152/2021
PS Connaught Place
State Vs. Vinod Sharma
U/s 188/269/270/153A IPC,
S. 3 Epidemic Diseases Act &
S. 51 (b) DM Act

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SHO/Insp. Inder Kumar Jha & IO/SI Ramkesh Meena, PS Connaught Place.

This is an application for grant of bail u/s 437 CrPC to the applicant/accused namely Vinod Sharma.

Reply has been filed by IO wherein the IO has vehemently opposed the bail application on the ground that according to CDR report, as of now, accused was present on the spot at or around 2 pm. Presence of accused is confirmed through obtained video footage. Release of applicant/accused will be prejudicial in maintaining public tranquillity and will further create serious law and order situation. There are chances that the applicant/accused will create communal disharmony.

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facie against the applicant/accused. The FIR is lodged against unknown persons, applicant/accused is not even named in the said FIR. Applicant/accused was not even present in the gathering at the time when allegedly offence u/s 153A IPC was committed. Ld. Counsel has also placed reliance upon the order dated 11.08.2021 passed by this Court by virtue of which bail was granted to the other accused allegedly involved in the present matter who had acted in a bonafide manner and had duly offered his assistance to the Investigating Agency.

Sh. Avadh Kaushik, Ld. Counsel for the applicant/accused submits that there is delay in registration of FIR which hampers the case of the investigating agency in itself. That the applicant/accused has been falsely implicated in the present matter, and even after arrest, applicant/accused was taken to unknown place. Ld. Counsel submits that this is a clear case of atrocity committed by the police on innocent citizens.

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Heard both sides at length. Perused the record.

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standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce *prima facie* evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

Indeed it is difficult time for everyone during this pandemic and serious view should be taken against those who violate the guidelines/restrictions to contain the spread of COVID-19 pandemic, yet the offences as far as breach of these guidelines are concerned are bailable in nature, which can be dealt by the Trial Court on merits.

As far as the offence u/s 153A IPC is concerned, even though from perusal of the FIR no specific allegation against the applicant/accused can be ascertained and that, even the FIR is silent with regard to commission of offence u/s 153A IPC, yet *prima facie* perusal of all the material available on record including the alleged video footage, fails to find support in favour of the applicant/accused. This Court has seen the alleged video clippings and played some part of it in Open Court also. The CDR record shows that the applicant/accused was present on the spot at the same time when other accused persons Deepak Singh and Preet Singh were also present and alleged speeches were made. This Court at this stage cannot check the veracity of these video clippings which is a matter of appreciation of evidence to be done at later stage. Besides, there is no *time stamp* available at this stage on these video clippings for which proper investigation has to be done. This Court cannot interfere with the ongoing investigation.

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