

IN THE COURT OF DR. D.N.BHARDWAJ,
ADDITIONAL SESSIONS JUDGE, GURUGRAM

CNR Number HRGR01-008625-2021.
CIS Number BA 2038/2021.
UID Number HR0100.
Date of Decision 02.08.2021.

Gopal Sharma @ Rambhagat Gopal aged 19 years s/o Sh. Rajender
Sharma r/o Jewar, Dauji Mohalla District Gautam Budh Nagar, U.P.

..... Applicant/Accused.

Versus

State of Haryana.

..... Respondent.

FIR No.265 dated 11.07.2021.
U/ss 153A, 295A IPC.
Police Station Pataudi.

2Nd APPLICATION FOR BAIL UNDER SECTION 439
OF THE CODE OF CRIMINAL PROCEDURE, 1973

Present : Shri Lokesh Vashistha, Advocate for applicant-accused.
Shri Jagbir Singh, PP for the State.

ORDER

This is the second application for bail filed by applicant-
accused Gopal Sharma @ Rambhagat in FIR No.265 dated 11.7.2021
under sections 153A, 295A IPC Police Station Pataudi, Gurugram. The
first bail application was dismissed as withdrawn on 19.7.2021.

2. Learned counsel for applicant-accused submits that the
applicant-accused has been falsely implicated in the case by the police
which is based on incomplete and concocted facts. The applicant is a
young boy of 19 years of age and is in custody since 12.7.2021. There is
no recovery pending against the applicant-accused. Alleged Maha
Panchayat had taken place on 4.7.2021 and there is no incident of

(Dr. D.N.Bhardwaj)
Additional Sessions Judge,
Gurugram(UID No.HR0100)
2.8.2021.

religious, communal tension. The offence is punishable with imprisonment of only three years. The offence is triable by Magistrate. Personal liberty is of foremost consideration. The applicant-accused is entitled to bail in view of pronouncement of Hon'ble Supreme Court in Arnesh Kumar Vs. State of Bihar. Learned counsel for the applicant-accused also referred to Lt. Col. Prasad Shrikant Purohit Vs. State of Maharashtra, Criminal Appeal No.1448 of 2017 arising out of SLP (Crl.) No.3716 of 2017 decided on 21.8.2017.

3. On notice, application has been opposed by learned Public Prosecutor for the State reiterating the contents of the FIR registered on the complaint of Dinesh that on 4.7.2021 a Maha Panchayat was organized in Ramlila Ground, Pataudi wherein applicant-accused Gopal Sharma @ Rambhagat Gopal gave hate speech which could lead to riots and law and order situation could be endangered as the speech was promotive of enmity between two communities and outraging religious feelings of a particular community. The video is viral on social media and the speech contains words inciting religious sentiments.

4. I have heard learned counsel for the applicant-accused and learned Public Prosecutor for the State and have perused the documents on record carefully.

5. The applicant/accused is seeking bail in connection with offence under sections 153A, 295A IPC. The allegations against him are that he, in a Maha Panchayat held at Pataudi, uttered words which were

promotive of religious disharmony and hatred and outraged religious feelings of a particular community which could be prejudicial to the maintenance of religious harmony and endanger law and order situation.

6. The Constitution of India guarantees freedom of speech to all citizens. The freedom is not wild free. There are reasonable restrictions also on this freedom of speech. Similarly, freedom of life and liberty of a person is equally important and guaranteed by the Constitution but keeping in view the fundamental principle of criminal jurisprudence balance between the societal interest viz-a-viz personal liberty is to be maintained. The balance is very fine and delicate.

7. At the time of deciding bail application, totalities of facts and circumstances of the particular case are to be considered. The offences in the present case are triable by Magistrate. The applicant is in custody since 12.7.2021 and is about 19 years of age. He is not required for any recovery etc. Trial is likely to take considerable time. Keeping in view totality of the facts and circumstances of the case and without commenting anything on merits, I am of the view that the application for bail filed by applicant-accused Gopal Sharma @ Rambhagat deserves to be allowed. Accordingly, the present bail application is allowed. Applicant/accused Gopal Sharma @ Rambhagat is admitted to bail on his furnishing bail bonds in the sum of Rs.1,00,000/- with one local surety in the like amount to the satisfaction of learned Ilaqa/Duty Magistrate, Pataudi. The applicant shall co-operate in the

investigation of the case and shall not influence the witnesses.

8. Before parting with the order, it is made clear that this bail order is further subject to the condition that during pendency of this case, applicant-accused Gopal Sharma @ Rambhagat shall not organize or attend or address any public gathering which is likely to promote disharmony or feeling of enmity, hatred or illwill between religious/racial groups/community or any gathering which is prejudicial to the maintenance of religious harmony or likely to disturb the public tranquility or to cause fear or alarm or a feeling of insecurity amongst members of any religious group/community or to outrage the religious feelings of any religious group/community, nor shall the applicant-accused accept any recognition or felicitations from any person or group or society etc. individually or collectively, in connection with this case or any other case of the abovementioned nature. A copy of this order be sent to the learned Ilaqa/Duty Magistrate for compliance. File be consigned to record room after due compliance.

Announced.
02.08.2021

(Mohinder, Stenographer G-I)

(Dr.D.N.Bhardwaj)
Additional Sessions Judge,
Gurugram.(UID No.HR0100)

Note:All four pages of the order have been checked and signed by me.

(Dr.D.N.Bhardwaj)
Additional Sessions Judge,
Gurugram.(UID No.HR0100)

(Dr. D.N.Bhardwaj)
Additional Sessions Judge,
Gurugram(UID No.HR0100)
2.8.2021.