

DEV SAROHA  
Metropolitan Magistrate-05  
Court No. 13, Patiala House Court  
New Delhi

FIR No. : 141/2022  
PS : Special Cell  
U/S. : 153A/504/506/509 IPC  
State vs. Satpal Tanwar

19.06.2022

Present: Ld. APP for the State.

Sh. Pawan Kumar and Sh. Aurangzeb Khan with Sh.

Mehmood Pracha, Ld. counsels for the accused.

IO/Inspector Avdesh present.

Ld. counsel for the accused has submitted that the accused has been falsely implicated in this case and that after his arrest on 16.06.2022, the accused was subjected to third degree torture and because of that he had to be admitted to the hospital. He has further submitted that at first, the FIR was registered u/s 504/506/509 IPC and later on to illegally arrest and harass the accused Section 153A IPC was added. He has further submitted that the medical condition of the accused is such that if he remains in custody, he is most likely to die and that as per exception to Section 437 Cr.PC, as the accused is sick and infirm, the accused deserves to be released on bail. He has also shown a video to this court showing that the accused has been kept in chains in the hospital ward. He has further argued that the offence u/s 153A is punishable with only three years of imprisonment and that no notice u/s 41A CrPC as per guidelines of Hon'ble Supreme Court in the case of 'Arnesh Kumar vs. State of Bihar', decided on 02.07.2014 was given.

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Ld. APP for the State has opposed the bail application on the ground that the investigation of the case is at initial stage and that the allegations against the accused are serious in nature. He has submitted that at the time of arrest, the accused was in good health and that after his MLC was done from Indira Gandhi Hospital, Dwarka and he was taken to the police station, his condition deteriorated and then he was admitted to Dr. RML Hospital. He further submitted that it is true that at the first instance FIR was registered u/s 504/506/509 IPC, however, when the complete video was seen, the acts of the accused was found to be falling completely under the sphere of offence u/s 153A IPC. He has further submitted that for recovery of the phone of the accused so that the original video could be recovered and that looking at the conduct of the accused, the bail of the accused should be dismissed. Regarding the allegations that no notice u/s 41A Cr.PC was given, he stated that it was only as the accused could not be found at his addresses and was only arrested after his location was traced and thus, no notice u/s 41A Cr.PC could be given.

To this, the Ld. counsel for the accused has submitted that the parents of the accused live in village Khandsa and that the accused was out of station and thus, his South City-II address was locked.

IO/Inspector Avdesh has filed his report and same is perused. On being questioned, he has submitted that the accused/applicant is President of Bhim Sena. He further submitted that no notice u/s 41A Cr.PC was given to the accused as the addresses of the accused could not be verified. On being further questioned that when



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the accused was being traced according to his location, then whether any attempt was made by him either through call or whatsapp to apprise the accused regarding the registration of FIR, the IO has stated that nothing was of that sort was done. He further submitted that, when he went to Village Khandsa, Gurugram, he did not visit the house of the accused but obtained information from local source regarding second address.

Heard. Perused.

In this case, the allegations against the accused/applicant are that, the applicant/accused had posted a tweet announcing a bounty of Rupees one Crore to whoever cuts the tongue of Ms. Nupur Sharma, Ex-Spokesperson of BJP and that words used in the tweet were highly provocative and were more than sufficient for detriment to maintenance of public tranquility and on the analysis of the video it was found that video promoted enmity, hatred and illwill among Hindus and Muslims.

On the perusal of case diary, it has been found that FIR in this case was registered on 09.06.2022 u/s 504/506/509 IPC and that on 10.06.2022 IPC offence u/s 153A IPC was added after analysis of the complete video. This is the first thing which shows the haste in which the FIR was registered as first the FIR registered and then complete video was analyzed. The IO despite being questioned has failed to answer that why was he in such a hurry to register the FIR even when he had not seen the complete video.



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Further, the case diary shows that after registration of FIR, that raid was conducted by the IO at House No.122/B-2, Q1, South City, Gurugram, Haryana and when the accused was not found there, next day on 10.06.2022 when offence u/s 153A IPC was added then IO along with the staff went to ancestral village Khandsa, Gurugram of the accused and from there from a local source IO came to know that accused is residing in Q-1 Block, South City-II, Gurugram, Haryana. The IO further states that the location of the mobile number was also found of the same area. On reaching at Q-1 Block, South City-II, Gurugram, Haryana, IO came to know from a local source that accused is residing at House No.100/1st Floor, Q-1 Block, South City-II, Gurugram, Haryana but that address was found to be locked and on checking the location of mobile number of the accused the location was found to be of Amritsar. He further states, later on the location of the accused was found to be of Deoband, U.P. and on 16.06.2022, when the location of the accused was found to be of Gurugram Haryana, he was arrested from that location when he did cooperate with the investigation.

These circumstances also raises some pertinent questions. When the IO had gone to Village Khandsa, why did he not go to to the house of the accused. He only reached the village and obtained information that the accused lives some other place. Further, on 10.06.2022, only he first states that location of the accused was found in Q-1 Block, South City-II, Gurugram, Haryana and then he states when he reached Q-1 Block, South City-II, Gurugram, Haryana, the location of the accused was found in Amritsar, IO has not given any explanation



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that how on the same date, location of the accused could have been found at such far away different places. Further, in all this exercise done by the IO why was no attempt was made to at least affix a notice u/s 41A Cr.PC at the village address of the accused or at House No.100/1st Floor, Q-1 Block, South City-II, Gurugram, Haryana. This shows that no attempt was made to comply with judgment of Arnesh Kumar vs. State of Bihar and IO wanted to arrest the accused without the compliance of.

Further the serious medical condition of the accused/applicant has been admitted and there is no question raised by the State regarding the same. Further, despite order dated 17.06.2022 of Ld. Duty MM to Medical Officer, RML Hospital, no report has been filed till the dictation of this order i.e. 7.15 p.m. Also the fact that the accused/applicant is member of Bhim Sena is not relevant as Bhim Sena is not a Banned Organization. Further, no DD entry has been found which could have shown that IO went at any of the places as stated by him.

In these facts and circumstances, accused/applicant Satpal Tanwar deserves to be released on bail subject to the condition that whenever the accused/applicant is fit for investigation then he must cooperate fully with the IO.

Further, the bail is granted subject to the following conditions.

1. Accused shall furnish bail bond in the sum of **Rs.50,000/-** with one **sound surety** in the like amount;
2. Accused shall appear before the IO as and when called upon during investigation and on each date of hearing before the court;



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3. Accused shall not commit an offence similar to the offence of which he is suspected;

4. Accused shall not directly or indirectly or in any other manner offer inducement or extend threat to the prosecution's witnesses;

5. Accused shall not leave the territory of India without seeking prior permission of the court; and

6. Accused is directed to furnish Annexure-B in pursuance of judgment of Hon'ble High Court of Delhi in Cri (MC) No.5328/2018 dated 28.06.2021 in the matter of Sunil Tyagi vs. NCT of Delhi & Ors. with bail bonds.

Application is disposed of accordingly.

Copy of order be given dasti as prayed for.



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(Dev Saroha)

Duty MM/PHC/ND/19.06.2022

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