



2025:CGHC:216

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 6923 of 2024Reserved on : 12.12.2024Delivered on : 02.01.2025

Devendra Yadav S/o. Indal Singh Yadav Aged About 33 Years R/o. Bhilai Nagar, V.No. 65, M.I.G. 175, 176 Ward No. 15, H. Board Colony, Bhilai, Dist. Durg (C.G.).

Note - (As mentioned in the certified copy of the bail order) however the complete correct details of the applicant as is under:

Devendra Singh Yadav, S/o Indal Singh Yadav, Aged About 33 Years Member of Legislative Assembly Vidhan Sabha, Area No. 65, Bhilai Nagar permanent resident of M.I.G. 175, 176 Ward No. 15, Housing Board Colony, Bhilai, District - Durg (C.G.)

... Applicant

versus

State of Chhattisgarh Through Station House Officer City Kotwali, Balodabazar, District - Balodabazar (C.G.) (Wrongly Mentioned In The Impugned Order As State Of Chhattisgarh Balodabazar, District - Balodabazar (C.G.)

... Respondent

For Applicant : Mr. Jasraj Singh Bhatia, with Ms. Khushboo Naresh Dua, Advocate.

For State : Mr. Neeraj Sharma, Dy. Advocate General.

Hon'ble Shri Justice Narendra Kumar Vyas**(CAV Order)**

1. This is first bail application filed under Section 483 of the Bhartiya Nayay Suraksha Sanhita, 2023 for grant of regular bail to the applicant who has been **arrested** on **17.08.2024** in connection with Crime No. 386/2024 registered at Police Station- City Kotwali Balodabazar, District- Balodabazar (C.G.) for the offence punishable under Sections 153-A, 505(1)(B), 505(1)(b), 505(1)(c), 109, 120(B), 147, 148, 149, 186, 356, 332, 333, 307, 435, 436, 341, 427 of IPC and Sections 3, 4 of

Prevention of Damage to Public Property Act, 1984 (for short "the PDPPA, Act").

2. The prosecution story, in brief, is that the present complainant- Deputy Superintendent of Police has lodged a complaint on 13.06.2024 before Police Station- City Kotwali, Baloda-Bazar alleging that some persons belonging to Satnami Samaj have committed incident of assault, vandalism and arson on 10.06.2024 on the pretext that on 15/16th May, 2024 at Village- Mahakoni, Police Station- Amargupha, Giroudpuri, a monument of Satnami Samaj was damaged and loss to the said property was done, therefore, Crime No. 105/2024 for commission of offence under Section 295, 34 of IPC was registered on 17.05.2024. The police after investigation has submitted charge-sheet against Sultu Kumar Yadav & two others before the learned Judicial Magistrate First Class, Kasdol, District- Baloda-Bazar. Thereafter the President of Satnami Samaj Chhattisgarh and other office bearers including office bearers of political parties have submitted an application on 30.05.2024 wherein permission to conduct the conference of the community was sought, to conduct CBI enquiry was demanded. It was also decided that by conducting congregate between 3-4 p.m. a memo has to be handed over to the Collector- Balodabazar, wherein 10 persons were authorized to meet the Collector which was allowed with certain conditions. Thereafter, a meeting was also organized in the office of Joint Collector, Balodabazar on 07.06.2024 wherein it was also agreed by the Satanami Samaj that they will conduct the congregate in a peaceful manner without disturbing the peace and tranquility of the area. Accordingly, the permission was granted on the conditions of maintaining peace and tranquility. Thereafter, the congregate was

started on 10.06.2024 at 11 a.m. where the administration deployed police persons to maintain the law and order. All of a sudden, at about 2.30 – 6.00 p.m. the congregate started stone pelting at office of Superintendent of Police, District Panchayat, Tahsil office and caused damages to the property and also official records were also damaged. Accordingly, FIR was registered. In the incident, 134 motorcycles, 29 four wheeler vehicles and 1 fire brigade, 17 government vehicles, 12 government four wheeler vehicles were damaged causing loss of total Rs. 2.82 crores.

3. The applicant who is Member of Legislative Assembly, Bhilai was also present there though he does not belong to Satnami community and the prosecution has collected the material regarding the conspiracy and providing financial assistance to the mob for doing such illegal activity. It is also case of the prosecution that when the organizer requested the accused to provide assistance, he has suggested to do the act which may disturb the administration and for that if financial assistance is required, he will provide the same. It is also case of the prosecution that the applicant's presence on the place of occurrence can be ascertained from the press conference given by the applicant itself. Accordingly, the FIR was registered against the applicant for commission of the aforesaid offences.
4. This Court vide order dated 09.12.2024 has directed the State to file affidavit explaining how much loss to the public exchequer has been caused by the action of the accused persons and also to produce the video of procession to demonstrate how many persons assembled on the spot.

5. In pursuance of direction given by this Court, the State has filed affidavit of Inspector, Cyber Cell, Balodabazar, District- Balodabazar-Bhatapara (C.G.) wherein he has stated in paragraph 19 of the affidavit as under :-

“19. It is respectfully submitted that due to the criminal conspiracy of the applicant, the supporters of the applicant along with agitators damaged the loss of public at large. It is further submitted that overall damages in all 13 FIRs, is estimated 10,21,00,000/- (Rs. Ten Crores Twenty One Lakhs).”

6. Learned counsel for the applicant would submit that the applicant has been falsely implicated in the crime in question due to political vendetta by the rival party. He would further submit that the applicant has been arrested only on the ground of suspicion since the FIR was lodged against unknown offenders. He would further submit that the applicant was arrested in the said FIR on 17.08.2024 i.e. two months after the registration of the said FIR, already undergone custody of nearly 4 months and the charge-sheet has been filed in the instant case on 13.11.2024 inter alia against the applicant. He would further submit that the investigation against the applicant is completed, therefore, custodial remand of the applicant is not required for further investigation. There is no recovery or discovery to be done from the applicant or at his behest. He would further submit that the applicant is an MLA from the constituency of Bhilai and he is obligated to look after the interests of the members of his constituency, therefore, due to incarceration, the applicant is unable to discharge his obligation towards members of his constituency, as such he would pray for releasing the applicant on bail. He would further submit that as per case of the prosecution, the applicant visited the place of incident on 10.06.2024 and protested the cause of Satnami Samaj by demanding fair and impartial investigation against the miscreants which is incorrect submission as he was not the

organizer or sponsor of the protest and even he has not given any speech at the event. In fact, the applicant did not even go to the stage or address the crowd in any manner. He would further submit that the entire incident has been done after the applicant left from the place of incident, therefore, he cannot be held responsible for any vandalism and arson causing loss to public and private property at Baloda Bazaar. No loss of life took place in the incident. He would further submit that the applicant was not named as an accused in any of the 13 FIR which have been lodged for the said incident and no material has been disclosed in any of the FIR. He would further submit that 500 witnesses have been cited across 13 FIR and the trial will take a longer time and there is no justifiable reason for keeping the applicant in jail, as such, he would pray for releasing him on bail.

7. He would further submit that the applicant was arrested on the basis of his memorandum statement wherein he had accepted that "he came with his driver and PSO to the Satnami Samaj on 10.06.2024 at Dushera Maidan Baloda Bazar Bhatapara to support the Satnami movement and was present there for 15-20 minutes" which is not legal sustainable ground for arrest in absence of any corroborative evidence collected by the prosecution. He would further submit that in the rally though the other speakers have made statement, but the applicant did not make any statement still he has been arrayed as accused, which is illegality. He would further submit that the applicant has been arrested on account of conversation with some individuals before the date of incident or after the date of incident which is not legal sustainable ground to connect the applicant with the crime in question. He would further submit that the arrest of the applicant is illegal as no ground of

arrest were given to the applicant at the time of his arrest in writing or orally which is inviolation of fundamental right of the Constitution of India. He would further submit that the statements of co-accused cannot be relied upon as per the law laid down by Hon'ble the Supreme Court. He would further submit that the prosecution has not collected any material to show that the applicant has instigated the mob to commit such offence. He would further submit that there is no chance of flight risk of the applicant or he would influence the witnesses or he would tamper with the evidence, as such, he would pray for releasing the applicant on bail.

8. To substantiate his submission, he would refer to the judgment rendered by Hon'ble the Supreme Court in case of **Prabir Purkayashta Vs. State (NCT of Delhi) [(2024) 8 SCC 254]**, **Haricharan Kurmi Vs. State of Bihar [1964 SCC OnLine SC 28]**, **Manish Sisodia Vs. Enforcement Directorate [SLP CrI. No. 8781 of 2024]**, **Bibhav Kumar State (NCT of Delhi) [2024 SCC OnLine SC 2646]**, **Javed Gulam Nabi Shaikh Vs. State of Maharashtra [2024 SCC OnLine SC 1693]**, **Kirti Pal Vs. State of West Bengal [2015 CrI. LJ 3152]**, **Arnesh Kumar Vs. State of Bihar [2014 (8) SCC 273]**, **Asif Aslam Vs. State of Jharkhan & others [CrI. Appeal No. 2207/2023]**, **Romesh Thapar Vs. State of Madras [1950 SCC 436]**, **Arvind Kejriwal Vs. Directorate of Enforcement [2024 SCC OnLine SC 848]**, **Indira Nehru Gandhi Vs. Raj Narain [1975 Supp. SCC 1]**, **Mohinder Sing Gill Vs. Chief Election Commissioner [1978 (1) SCC 405]**, **T.N. Seshan Vs. Union of India [(1995) 4 SCC 611]** & **Anoop Baranwal Vs. Union of India [(2023) 6 SCC 161]**.

9. On the other hand, learned State counsel vehemently objected the submission of the learned counsel for the applicant and would submit that after registration of the FIR sufficient material has been collected by the prosecution and the statements of the witnesses were recorded. The applicant who is a Member of Legislative Assembly, Bhilai was also present there though he does not belong to Satnami community and the prosecution has collected the material regarding the conspiracy and providing financial assistance to the mob for doing such illegal activity. He would further submit that when the organizer requested the accused to provide assistance, he has suggested to do the act which may disturb the administration and for that also if financial assistance is required, he will provide the same to the organizer. He would further submit that the applicant's presence on the place of occurrence can be ascertained from the press conference given by the applicant itself. He would further submit that in the memorandum statement of accused recorded by the police, he has admitted that he was present on the date of incident. He has also stated that he has informed one Shailendra that he will come there and also stated that he has posted the video in social media account wherein he has stated that he has come there to support the demand for investigation of the matter by CBI only and he has also admitted that he remained there for 10 minutes. He has also admitted that about 10,000 persons were present there. He has also stated that he has supported the cause of the Satnami Samaj but does not support the violence. A special query was raised to him regarding direction of the State Government to conduct judicial enquiry before 10.06.2024, whether this information was known to him, he has not given any specific reply but he has stated that the community has

sought CBI enquiry. He would further submit that the present case relates to the large scale violence and fire incident which took place in the Balodabazar- Bhatapara district and it is a rare occurrence of such a large scale of violence in the State of Chhattisgarh which has caused damage of Government and public property to an estimated amount is Rs. 10,21,00,000/- in all 13 FIRs which have been registered by the incident committed by the same mob at different places at Baloda Bazar District which is not a big district.

10. He would further submit that the accused person has acted in furtherance of the criminal conspiracy and has committed the offence of rioting, used criminal force, assaulted the public servants to prohibit them from discharging their duties, by obstructing the public way they have caused wrongful confinement, caused damages to the property, set fire the buildings, vehicles and also attacked Police Officers. He would further submit that after registration of the F.I.R., statement of co-accused person namely Pankaj Maraiya @ Goldy Maraiya who is ward member of Ward No. 16 and Vice President of District Congress Party has been recorded wherein he has stated that Kishore Navrange who is organizer of the congregate was assured by the persons that they will support him for this agitation including financial support also. He has further stated that when he informed this fact to the applicant then he told that the agitation should be so strong that it may shake the government and also told that he will come in the congregate, if required he will do the financial expenditure also. He has also stated that the the applicant has informed about his visit to Balodabazar on 10.06.2024 to Vivek Yadu and Suryakant Verma then he along with Shailendra Banjare, Suryakant Verma, Vivek Yadu and other volunteers

had gone to welcome the applicant at Ambedkar Chowk and after welcoming him, they have gone to Dushera Maidan where congregate was going on. He has also told that when the applicant made an attempt to sit in the stage, he was prevented by other persons and showing his unwillingness he has sat near the stage and the applicant has told that by giving memorandum to the Government, Collector, it will not break up the administration but something different has to be done, then only reputation of the community will increase. Thereafter, some leaders of the Samaj started giving inflammatory speech which has instigated crowd of about 10000 persons to start slogan against the Government. He has also stated that the applicant has told that now they should leave the place of occurrence as their target is achieved.

11. He would further submit that the serious allegations have been leveled regarding the involvement of the present applicant in the violence and agitation which ultimately resulted in destruction of Public Property and public building at a large scale; wherein at the Collectorate building more than 257 vehicles have been burnt up, including the vehicles owned by Government officers, 3 fire extinguisher vehicles and many vehicles belonging to general public have also been burnt during the incident. It would be pertinent to mention here that the vehicles of one of the judicial officer of the Family Court has also been burnt for which a different F.I.R. has been registered. Looking to the nature and gravity of the offence which resulted in destroying the peace & rule of law of the entire State as well as the role of the applicant in provoking the riots and the role in causing damage to the public property, his bail application may kindly be rejected.

12. I have heard learned counsel for the parties, perused the case diary and also seen the video clippings which have been produced by the Investigating Officer.
13. From the case diary, it is quite vivid that the prosecution has collected material against the present applicant because of the own statement of the applicant given in the video clip, photographs attached in the case diary and also supported from memorandum statement of co-accused namely Pankaj Maraiya recorded under Section 27 of the Evidence Act wherein he has mentioned the role played by the applicant and his presence in the crime in question. The case diary further demonstrates the manner in which offence has been committed causing not only public property by damaging the Government building, setting the Government vehicles and Fire Services on fire and also setting the vehicles of common people on fire causing huge loss at public at large. Due to the illegal act committed by the applicant instigating other persons, the peace and tranquility of the Baloda Bazar district is jeopardized.
14. The Hon'ble Supreme Court in case of **Ramesh Bhavan Rathod Vs. Vishanbhai Hirabhai Makwana (Koli) & another [2021 (6) SCC 230]** has held in paragraph 23 as under :-

24. The principles governing the grant of bail were reiterated by a two judge Bench in *Prasanta Kumar Sarkar v. Ashis Chatterjee* (2010) 14 SCC 496:

"9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

“10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal...”

47. The considerations which must weigh with the Court in granting bail have been formulated in the decisions of this Court in *Ram Govind Upadhyay v. Sudarshan Singh*¹³ and *Prasanta Kumar Sarkar v. Ashis Chatterjee*¹⁴ (noted earlier). These decisions as well as the decision in *Sanjay Chandra* (supra) were adverted to in a recent decision of a two judge Bench of this Court dated 19 March 2021 in *The State of Kerala v. Mahesh*¹⁵ where the Court observed:

“22...All the relevant factors have to be weighed by the Court considering an application for bail, including the gravity of the offence, the evidence and material which prima facie show the involvement of applicant for bail in the offence alleged, the extent of involvement of the applicant for bail, in the offence alleged, possibility of the applicant accused absconding or otherwise defeating or delaying the course of justice, reasonable apprehension of witnesses being threatened or influenced or of evidence being tempered with, and danger to the safety of the victim (if alive), the complainant, their relatives, friends or other witnesses....” Similarly, the Court held that the grant of bail by the High Court can be set aside, consistent with the precedents we have discussed above, when such grant is based on non-application of mind or is innocent of the relevant factors for such grant.”

15. Even otherwise the submission advanced by the learned counsel for the applicant that the memorandum statement is poor piece of evidence, cannot be considered at the time of hearing the bail application, quality of the material collected by the prosecution

regarding conspiracy done by the applicant, are defence of the accused which requires thread-baring analysis of evidence which can be done by the trial Court only after recording of the evidence. This Court cannot lose sight of the fact that the presence of the applicant is admitted in the press conference done by him as reflected in the video attached with the case diary. Thus, there is sufficient material to *prima facie* record finding regarding involvement of the applicant in the crime in question.

16. Considering the law laid down by the Hon'ble Supreme Court in case of **Ramesh Bhavan Rathod** (supra) and also looking to the gravity of the offence and manner in which the offence has been committed, I am of the view that this is not a fit case to release the applicant on bail.
17. Accordingly, present bail application *sans* merit is rejected.

Sd/-
(Narendra Kumar Vyas)
Judge

Arun