

State of Punjab Vs. Ravinder Kumar & Anr. BA-156-2023
CNR.No.PBPTA1-002601-2023

Present : Ch.Paramveer Singh, Adv. for applicants/accused
Additional Public Prosecutor for the State.

This order of mine shall dispose of an bail application filed on behalf of accused/applicants through his counsel.

2. Ld.counsel for the accused/applicant has filed the present bail application on the ground that applicants are law abiding citizens and have been falsely implicated in the present case. It is further stated that accused/applicants were sent to judicial custody on 10.08.2023 and the registration of FIR is an abuse of process of law and no offence under section 295-A IPC is made out. There was no mens-rea on the part of applicants which is sine-qua-non for the offence under section 295-A IPC. There is no allegation of any positive act on the part of accused/applicants by which religious feelings or beliefs of any person have been outraged. It is further stated that applicants have not committed any offence and they are in custody since 09.08.2023. It is further stated that completion of investigation would take long time and no useful purpose will be served by detaining the applicants in custody for indefinite period. It is further stated that applicants undertake to abide by the terms and conditions his conditions which may be imposed by this court while granting bail. It is further stated that applicants will not temper with the prosecution witnesses. In the end prayer has been made to allow the present application.

3. Status report/Record perused. Arguments heard.

4. Perusal of record shows that the present FIR has been

registered on the statement of Barjinder Singh son of Karnail Singh. As per his statement religious books were kept in the racks by the accused persons in their shop. Dust was lying on the books. It is also alleged that accused persons have not followed religious practices in order to maintain respect of the religious books relating to Sikh and Hindu religion. It is not in the statement of complainant or found during the investigation that accused had intentionally sprinkled or put dust on the religious books.

Section 295-A of IPC is reproduced below :-

Section 295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.—Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of ²⁷³ [citizens of India], ²⁷⁴ [by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to 4[three years], or with fine, or with both.]

The prime element to constitute an offence under Sec. 295-A IPC is deliberate and malicious intention of accused. Such intention must be to outrage religious feelings of citizens. As already discussed above it is not alleged that accused had intentionally put dust on the religious books or he was seen by some one putting dust on the aforesaid religious books. The element of deliberate and malicious intention is debatable in this case but certainly subject to evidence to be led by prosecution in case chargesheet is submitted against the accused in future. The accused persons are already in custody since 09.08.2023 i.e. since the

day of incident. No useful purpose will be served by keeping them behind bars any further. Completion of investigation and thereafter conclusion of trial would certainly take considerable time, moreover, bail is the rule and jail is exception. So, therefore, in view of discussion made above, bail application of accused/applicants stands allowed subject to furnishing of bail bonds in the sum of Rs.60,000/- with one surety in the like amount each. During the period of the bail the accused/applicants will remain bound by the following conditions:-

1. Accused will not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or in any other way try to temper with the evidence or influence any witness in this case or any other case against him or any other crime under investigation by any government agency.
2. Accused will co-operate in the early completion of the trial and shall attend the hearings unless exempted.
3. Accused will intimate the place of their residence and will not change the same without prior intimation to the respondent of their intention to shift elsewhere.

3. Requisite bail bonds and surety bonds furnished. Accepted and attested. Release order be issued forthwith. Papers be placed on the record of main case file.

Date of Order: 17.08.2023

Rajesh-JW

(Hirdejit Singh, PCS)
Sub Divisional Judicial Magistrate
Rajpura-PB00328