

17.12.2020
Court No.28
SL No.78
AP

**CRM 8845 of 2020
(Through Video Conference)**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Samsherganj** P.S. FIR No.**166 of 2020** dated **19th August, 2020** under Sections **295A/505** of the Indian Penal Code and Section **66** of the Information Technology Act.

And

In the matter of: **Mr. Atul Kumar Mishra**

....Petitioner.

Mr. Rituraj Choudhary,
Mr. Aritra Das,
Mrs. Maheswari Sharma

...for the Petitioner.

Mr. S.S. Imam,
Mr. S. Roy

...for the State.

It is submitted on behalf of the petitioner that he had expressed bona fide opinion in the social media with regard to the decisions taken by the government. He had no intention to outrage religious sentiment.

Learned lawyer for the State opposes the prayer for anticipatory bail.

We have considered the materials on record including the online publication in question. Petitioner had criticized a decision of the government in restricting playing of music or use of mobile phone in a village. Whether the act of the petitioner was actuated with requisite mens rea or not is a matter may be assessed at the appropriate stage of the proceedings. However, such exercise does not require custodial interrogation of the petitioner and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- (Rupees

Ten Thousand Only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The application for anticipatory bail is, thus, allowed.

The parties shall act in terms of the copy of the order downloaded from the official website of this court.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)