

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.698 of 2021

- Abdul Waheed Siddiqui @ Bablu Siddiqui, S/o Shri A.K. Siddiqui, aged about 47 years, R/o H.No.-4, Masjid Para, Ward No.9, Kirandul, District Dantewada (CG)

---- Applicant

Versus

- State of Chhattisgarh, through the SHO, Police Station Kirandul, District Dantewada (CG)

---- Non-applicant

For Applicant	:	Mr. Vivek Sharma, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate
For Objector	:	Mr. Bhupendra Singh, Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

28/7/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.30/2021 registered at Police Station Kirandul, District Dantewada (CG) for commission of offence punishable under Sections 153(A) & 295(A) of IPC.
2. Case of the prosecution, in brief, is that on 16.5.2021 at 3.30 p.m. present applicant posted one message in his face-book account which contained objectionable and indecent words. On the same day at about 9.30 p.m. report was lodged against present applicant stating that by posting such a message in social media, present applicant has committed the offence punishable under Sections 153(A) & 295(A) of IPC. Act of applicant is deliberate and malicious with intent to hurt religious feelings of a particular religion and is an attempt to disturb social harmony. On the basis of aforesaid allegations, instant crime is registered against present applicant.
3. Mr. Vivek Sharma, learned counsel for applicant would submit that he has placed on record the message posted by him in

his face-book account and a glance of same would show that the same is not created by present applicant, it is a forwarded message received by present applicant from face-book account of one Faridi-UI-Hassan Tanveer and the same was inadvertently shared by him in social media. He further submits that present applicant realizing mistake on his part, has immediately posted another message from his face-book account in social media expressing apology and saying that said message was posted/shared by mistake. He further submits that perusal of the contents of message would demonstrate that it does not contain anything of the nature which creates unrest and disharmony between two religions, hence the offence under Section 153(A) of IPC would not be made out against present applicant. In support of his submissions, he places his reliance upon the order dated 12.4.2021 passed in WPCR No.2510/21. He further submits that contents of second message posted by applicant immediately after realizing mistake on his part, if read with first, would demonstrate that present applicant was not having any deliberate or malicious intent of outraging religious feelings of any class by insulting any religion or religious belief, hence, offence under Section 295 (A) of IPC would also not be made out against present applicant. He further pointed out that as per provisions of Section 196 of CrPC, prior sanction of the Central Government or State Government, as the case may be, is mandatory before taking cognizance of offence punishable under Section 153A & 295A of IPC, which has not been obtained in case at hand. Hence, he prays that present applicant may be enlarged on anticipatory bail.

4. Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that allegations levelled against present applicant are serious in nature and prejudicial to communal harmony. The act of applicant is deliberate and malicious with intent to outrage religious feelings, hence he is not entitled to

protective umbrella under Section 438 of CrPC.

5. Mr. Bhupendra Singh, learned counsel for the Objector/ Complainant submits that based on the message in question posted in social media, as many as 20 crimes are registered at different police stations of the State. Act of present applicant is deliberate and malicious with intent to insult particular religion and its belief. If anticipatory bail application of present applicant is allowed, the same would encourage others also to post/share the message of the nature as shared/ posted by present applicant, which may be prejudicial to communal harmony.
6. I have heard learned counsel for the parties and perused case diary.
7. Along with this anticipatory bail application, present applicant has filed both the posts/messages shared by him in social media through his face-book account, that is to say, one based on which instant crime is registered and another by which present applicant has tendered apology. He has also placed copies of two orders of this High Court in WP (Cr.) No.119/2020, parties being Khalid Menon vs. State of CG & ors and WP (Cr) No.251/2020, parties being Dr. Sambit Patra vs. State of CG & ors.
8. Taking into consideration the entire facts and circumstances of case, nature of allegations levelled against present applicant, material available in case diary, without commenting anything on merits of case, I am inclined to grant anticipatory bail to present applicant.
9. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Arresting Officer. The applicant shall also

abide by the following conditions:

- (i) that he shall make himself available for interrogation before Investigating Officer as and when required;
- (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him / her from disclosing such facts to Court or to any police officer;
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Parth Prateem Sahu)

Judge

roshan/-