

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 25-2-2021Order delivered on 10-3-2021MCRCA No. 1661 of 2020

- Chituri Naresh S/o Shiv Gopal Krishna Aged About 31 Years R/o B - 15, Block - 14, Railway Quarter, Sitafal Mandi, Hyderabad (Telangana).

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Bhilai Nagar District Durg Chhattisgarh.

---- Respondent

For Applicant	:-	Mr. TK Jha, Advocate
For Respondent /State	:-	Mr. Ravish Verma, G.A.

Hon'ble Mr. Justice Prashant Kumar Mishra**CAV Order**

1. Heard.
2. The applicant has preferred this **second bail application** for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.97/2020, registered at Police Station Thana- Bhilai Nagar District- Durg C.G. for offence punishable under Sections 153-A, 295-A of the I.P.C.
3. The first bail application was dismissed vide order dated 30.6.2020 bearing MCRCA No.470/2020 as it was directly filed before the High Court without availing the jurisdiction before the

Sessions Court.

4. Applicant has uploaded messages on facebook on 26-2-2020 calling upon his Hindu Brothers to awake; demolish the Mosque (मस्जिद); a Government school building and construct Ram Mandir at Sector-6 Bhilai.
5. Learned counsel for the applicant would argue that Section 295A of the IPC does not penalize any and every act of insult to or attempt to insult the religion or the religious beliefs of a class of citizens but it penalizes only those acts of insults to or those varieties of attempts to insult the religion or the religious beliefs of a class of citizens, which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Similarly, Section 153A of the IPC also covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquility. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the *sine qua non* of the offence under Section 153A of IPC and the prosecution has to prove *prima facie* the existence of *mens rea* on the part of the accused. The intention has to be judged primarily by the

language of the book and the circumstances in which the book was written and published. The matter complained of within the ambit of Section 153A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning. Learned counsel would, therefore, submit that one singular act of uploading a message on the facebook, which too, is not yet substantiated, as the applicant contends that his facebook ID has been hacked to upload the subject offending message, the applicant is entitled to be released on bail.

6. Learned counsel for the State, *per contra*, would oppose the bail application.
7. Considering the fact that the applicant was allowed ad-interim bail by order dated 28-5-2020 passed in his first bail application bearing M.Cr.C.(A) No.470 of 2020 and has not misused the liberty and further considering the ingredients of offence under Sections 153A & 295A of the IPC and the defence raised by the applicant that his login ID has been hacked for sending the subject offending message, I am inclined to release the applicant on anticipatory bail.
8. Accordingly, the second anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant, he shall be released on anticipatory bail on executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the arresting officer with the following

conditions:-

(i) he shall make himself available for interrogation by a police officer as and when required;

(ii) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) the applicant shall not influence the witnesses during pendency of the trial.

SD/-
(Prashant Kumar Mishra)
Judge

Gowri