

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3255 OF 2022**

Ambutai Tukaram Bahirje ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Kuldeep U. Nikam a/w Prasad Avhad for the Applicant.
Mr. A.R. Kapadnis, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 23 NOVEMBER 2022

P.C. :-

This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.

2. The applicant is apprehending her arrest in Crime No. 394 of 2022 registered at Akkalkot (North) police station for the offence punishable under Section 121, 121-B, 124, 124-A, 295-A, 298, 504, 506 read with 34 of Indian Penal Code.

3. According to the prosecution the present applicant alongwith other co-accused created Whats App group. It is alleged that in the said Whats APP group the present applicant and other co-accused posted derogatory messages in respect of national leaders so also the

messages which would create communal disharmony.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The learned counsel for the applicant submits that the applicant is working as a primary teacher. The applicant has posted only one message which according to the prosecution is derogatory. It is submitted that the arrest of applicant would jeopardize her service career. It is submitted that nothing is to be recovered from the applicant and therefore her custodial interrogation is not necessary. Accordingly it is submitted that the applicant may be released on anticipatory bail.

6. On the other hand the learned APP for the respondent-State submits that the applicant is not disputing that derogatory messages were posted in the Whats APP group in relation to the national leaders. It is submitted that considering the nature of offence the applicant may not be released on anticipatory bail.

7. I have perused the First Information Report. It appears that there are 114 members of said Whats APP group. According to the prosecution screen shot of one of the messages was sent by one of the

members of the said Whats APP group to the complainant, who is not the member of the said group and on that basis report was lodged. Only one derogatory message is attributed to the present applicant. Nothing is to be recovered from the applicant and therefore her custodial interrogation is not necessary. Considering these facts and as the applicant is working as a teacher, I am inclined to release her on anticipatory bail. Hence, the following order is passed:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant in Crime No. 394 of 2022 registered at Akkalkot (North) police station for the offence punishable under Section 121, 121-B, 124, 124-A, 295-A, 298, 504, 506 read with 34 of Indian Penal Code, she shall be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend concerned police station on 28 November 2022 and 29 November 2022 and shall co-operate in the investigation. Applicant shall hand over her mobile phone to the Investigating Officer.

(N.R. BORKAR, J.)