

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 580 OF 2023

Ashpak Munsli Shaikh

...Applicant

Versus

The State of Maharashtra & Anr

...Respondents

Mr. M. H. T. Shaikh, Advocate for the Applicant.

Mrs. G. L. Deshpande, APP for Respondent – State.

CORAM : R.M. JOSHI, J.

RESERVED ON : JUNE 30, 2023

PRONOUNCED ON : JULY 04, 2023

ORDER

1. Applicant apprehends arrest in connection with Crime No. 140 of 2023 registered with Sonai Police Station, Tq. Newasa, Dist. Ahmednagar for the offence punishable under Section 295A of the Indian Penal Code.

2. Informant – Sandip reported to the police that on 24/03/2023 at about 03.30 pm his friend informed him that while he was checking his facebook account he found post made viral by present Applicant on 05.03.2023 in which one unknown person was found making derogatory statement against Shri. Savarkar. He also found to have posted a video, attributing insult to

religion of informant. Similar way another video was posted on the facebook which was said to have intended outraging of religious feeling of Hindus.

3. Learned Counsel for the Applicant states that Applicant is young person with no criminal history. According to him, unintentionally the said videos were made viral by him and he has learned lesson by now. It is stated that pursuant to the direction of this Court, Applicant attended police station and that mobile phone from which the said post were made viral is already seized. Thus, according to him, custody of the Applicant is not necessary.

4. Learned APP opposed the application by contending that not once but thrice Applicant has made videos viraled which were intended to outrage the religious feeling of Hindus and in view of this, Applicant is not entitled for protection from arrest.

5. No doubt, there is material on record to indicate that the applicant did make objectionable videos viral, however, for the purpose of determination of anticipatory bail, this Court also needs to consider

punishment prescribed for offence and need for custodial interrogation. It is not in dispute that mobile phone from which the videos and post were made viral is already seized and nothing is to be recovered at his instance. At this stage, there is no material to indicate that the Applicant had any designed motive of encouraging disturbance of peace and harmony between two communities. The offence alleged against the Applicant is triable by Magistrate and punishable with three years imprisonment. Further more interrogation of the Applicant is not necessary for any recovery. Applicant cannot be detained by way of pre-trial punishment. There is no apprehension spelt out by prosecution about his abscondance.

6. Hence, it is a fit case to allow Application by confirming interim relief. According, application is allowed by confirming interim order dated 19th April, 2023.

(R.M. JOSHI, J.)

Malani