



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 408 OF 2024

Sajid Khan Mannan Pathan V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.A. Naik, counsel for applicant.

Mr. P.P. Pendke, APP for Non-applicant/State.

Mr. A.B. Moon, counsel for complainant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/08/2024.

1. By this application, the applicant is seeking pre-arrest bail, in connection with Crime No. 234/2024 registered with Police Station Dabki Road, District Akola for the offence punishable under Sections 153-A, 120-B, 295-A and 504 of the Indian Penal Code, 1860.

2. The accusation against the present applicant is on the basis of report lodged by one Gajanan Shaligram Gawai alleging that during the election campaigning, the applicant had telephonically contacted one *Maulana Hafiz Nasir* in order to abuse him and make certain inflammatory and objectionable remarks about certain communities. It is further alleged that voice recording of telephonic conversation was deliberately circulated by the applicant in order to disturb public tranquility and create unrest between the two communities. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel Mr. A.A. Naik for the applicant submitted that, as far as the recitals of the FIR is concerned, no offence is made out either under Section 153-A or Section 295 of the Indian Penal Code, 1986, as there is no material to show that it was the present applicant who made a telephonic call and circulated the material to create the rift between the two communities. The mobile phone of the present applicant is already seized, he is attending the concerned police station and co-operating with the investigating agency. In view of that, his custodial interrogation is not required.

4. Learned APP and learned counsel for the complainant strongly opposed the said application on the ground that there are criminal antecedents against the present applicant, and if he is released on bail, there is every likelihood of committing similar nature of the offences. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. From which, it reveals that it is alleged that the applicant has made a phone call to one Maulana Hafiz Nasir and abused him, and sent an audio clip that went viral, and it is was heard by the complainant. From which, it reveals that he has uttered the words to create the rift between the two communities. As far as the allegations are concerned, the mobile phone of the present applicant is already seized by the investigating agency.

6. Learned APP submitted that voice sample of the present applicant is to be obtained. For that purpose, the custodial interrogation of the present applicant is not necessary. The applicant is already attending the police station for the purpose of interrogation therefore, considering the same, the interim protection granted to the present applicant deserves to be confirmed by imposing certain conditions. Accordingly, I proceed to pass the following order;

- a) The criminal application is allowed.
- b) In the event of his arrest, in connection with Crime No. 234/2024 registered with Police Station Dabki Road, District Akola for the offence punishable under Sections 153-A, 120-B, 295-A and 504 of the Indian Penal Code, 1860, the applicant shall be released on anticipatory bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned police station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.
- d) The applicant shall not indulge in similar type of activities in future.
- e) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- f) The contravention of any of the condition imposed by this court would lead to cancellation of his bail.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]