



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

CRIMINAL APPLICATION(APL) NO. 976 OF 2026

Gitesh Haridas Ghutke Vs. State of Maharashtra and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A.A.Mardikar, counsel for the applicant.
Mr. A.M.Joshi, APP for the State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 05/05/2026

1. Heard.
2. The applicant has filed this application seeking to quash and set aside the First Information Report bearing No.108 of 2026 registered with Police Station Desaiganj, District Gadchiroli, for the offence punishable under Section 196(1) of the Bharatiya Nyaya Sanhita, 2023.
3. The allegations against the present applicant are that he provoked communal riots. The applicant had posted a message in a WhatsApp group namely "Buddhist Pariwar Desaiganj (Wadsa)". The non-applicant No.2 was one of the members of the said group. It is alleged that the applicant circulated a message regarding Chhatrapati Shivaji Maharaj containing objectionable remarks, which was likely to cause communal disturbance in the society. Therefore, non-applicant No.2 lodged the complaint, and the crime came to be registered.

4. The learned counsel for the applicant has submitted that no case is made out against the present applicant, as there was no communal dispute and the alleged messages were merely casual exchanges in a closed WhatsApp group without any public dissemination. It is further submitted that the First Information Report is completely silent about any actual disturbance of public order, law and order situation, or communal tension arising out of the alleged message. In the absence of any such consequence, the invocation of Section 196 of the Bharatiya Nyaya Sanhita, 2023, is clearly excessive and amounts to criminalising a mere conversation.

5. The learned APP has opposed the application by submitting that the matter is still at the stage of investigation. It is contended that though no law and order situation has actually occurred, if timely action is not taken, there is every possibility of such a situation arising in future.

6. Heard both the sides. To appreciate the controversy involved in the present matter, it would be appropriate to reproduce Section 196(1) of the Bharatiya Nyaya Sanhita, 2023, which reads thus:-

Whoever,—

(a) by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities;
or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious,

racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity; or

(c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

7. As per Section 196(1), the contents of the message promote disharmony between two groups.

8. Considering the messages of the said group and the derogatory remarks allegedly passed by the applicant in the group, at this stage, a *prima facie* offence is made out against the applicant. This is not a fit case for quashing and setting aside the FIR. Hence, the application is rejected and stands disposed of.

JUDGE