



2026:AHC:113234

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 12532 of 2026

Mohd Azad Ali And 2 Others
.....Applicant(s)
Versus
State of U.P.
.....Opposite
Party(s)

Counsel for Applicant(s) : Piyush Mishra, Renu Mishra
Counsel for Opposite Party(s) : G.A.

connected with

CRIMINAL MISC. BAIL APPLICATION No. - 12529 of 2026

Mohd Tauseef Ahmad And Another
.....Applicant(s)
Versus
State of U.P.
.....Opposite
Party(s)

Counsel for Applicant(s) : Piyush Mishra, Renu Mishra
Counsel for Opposite Party(s) : G.A.

Court No. - 72

HON'BLE RAJIV LOCHAN SHUKLA, J.

1. Heard, the Learned counsel for the applicants, Sri Anoop Trivedi, the Learned Additional Advocate General, assisted by Sri Nitesh Srivastava, the Learned A.G.A. for the State and perused the record.
2. The instant bail applications have been filed with a prayer to release the applicants on bail in Case Crime No.0065 of 2026, under Sections 298, 299, 196 (1)(b), 279, 223(b), 308(5) B.N.S and Section 67 of the Information Technology Act, 2000, Police Station- Kotwali, District-Commissionerate Varanasi.
3. The Learned counsel for the applicants has contended that the applicants have been falsely implicated in the present case. The applicants never intended to hurt the sentiments of the Hindu community. The

applicants have suffered incarceration since 17.03.2026 and are no longer required for any custodial interrogation. The Learned counsel for the applicants further contends that apart from Section 308(5) of the B.N.S., none of the offences that have been levelled against the applicant are punishable with an imprisonment of more than seven years. The Learned counsel for the applicants has further contended that the fact regarding extortion being committed by the applicants on the said boatman viz. Anil Sahni has been brought belatedly in the investigation. The applicants have no criminal antecedents and if enlarged on bail, undertake not to repeat any such offence nor indulge in any similar activity, which may be prejudicial or harmful to the interest of religious harmony. The applicants are poor weavers who have only weaving as their source of livelihood.

4. Sri Anoop Trivedi, the Learned Additional Advocate General has vehemently opposed the prayer for grant of bail and has contended that the applicants have not only desecrated the River Ganges but have also in a brazen attempt to disturb communal harmony, uploaded the video on Instagram through the handle of one of the accused viz. Mohd. Tahseem. The Learned Additional Advocate General further contends that the video is part of a larger conspiracy to disturb public harmony and investigation is presently ensuing to find out, who had funded this *Iftar* party and was instrumental in promoting the uploading of the video. The Learned Additional Advocate General has further contended that courts all over the country have taken a very strict view of disruption of communal harmony by any individual or group. Sri. Trivedi, relies upon the decisions of the Chhattisgarh High Court in **Pranesh Anand and 3 Ors. Vs. State of Chhattisgarh**, Karnataka High Court in **Shree Siddalingayya Mahaswami Vs. State of Karnataka and 6 Ors.**, Delhi High Court in **Dr. Ratan Lal Vs. State Govt. of NCT of Delhi and Another** and this Court in the case of **M/S Geo Miller & Co. Pvt. Ltd. Thru. Director Vs. U.P. Jal Nigam, Lucknow Thru. General Manager & Ors.**

5. Relying upon these decisions, Sri Trivedi submits that the river Ganges is not only a revered goddess in the Hindu religion but is also the lifeline of the northern part of India. The Ganges being desecrated by the group of people which has been identified to be the applicants and other accused

has hurt the sentiments of the country at large and not only the Hindu community and has also created a serious situation of public order. He has forcefully submitted that the applicants may not be considered for grant of bail while investigation is in progress.

6. I have considered the submissions made by the Learned counsels for the parties and perused the material brought on record.

7. Before proceeding to adjudicate upon the merits of the claims of either of the parties, it would be appropriate to consider the authorities cited by the Learned Additional Advocate General in support of his arguments.

8. Sri Anoop Trivedi, Learned Additional Advocate General, while relying upon the decision of the High Court of Chhattisgarh in **Pranesh Anand (Supra)** emphasizes paragraphs 9, 10 and 11 to support his contentions. The said paragraphs are being reproduced hereinbelow:-

"9. At this stage, it would be appropriate to notice Section 295 of the IPC which relates to injuring or defiling place of worship with intent to insult the religion of any class. Section 295 of the IPC reads as follows:-

"295. Injuring or defiling place of worship with intent to insult the religion of any class.--Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

10. Way back, in the year 1958, in the matter of **S. Veerabadrhan Chettiar v. E.V. Ramaswami Naicker and others** Section 295 of the came up for consideration and Their Lordships of the Supreme Court have held that Section 295 has been intended to respect the religious susceptibilities of persons of different religious persuasions or creeds and Courts have got to be very circumspect in such matter and to pay due regard to the feelings and religious emotions of different classes of persons with different beliefs and held as under in paragraphs 6 and 7:-

"6. Apart from the question of evidence it is well known fact that the

image of Lord Ganesa or any objective representation of a similar kind, is held sacred by certain classes of Hindus, even though the image may not have been consecrated.

7. Any object however trivial or destitute of real value in itself, if regarded as sacred by any class of persons would come within the meaning of the penal section, namely, Section 295. It is not absolutely necessary that the object in order to be held sacred should have been actually worshipped. An object may be held sacred by a class of persons without being worshipped by them"

11. Thus, taking into consideration, the ingredients of offences particularly Section 452 and 295 of the Indian Penal Code, taking into account the broad facts and material brought into case diary, particularly the manner in which the applicants along with the other co-accused persons unauthorizedly entered into the prayer hall, shouting slogan "Jai Shriram", meant for members of Christian community, where their members were offering prayer and thereby breaking chairs, tables, desk, fans and damaged the pulpit, which is "held sacred" by the members of Christian community and which is a place in the Church/ place of worship, from where clergyman/priest preaches through its preached word, "pulpit" has always had theological as well as aesthetic significance, therefore, it cannot be held that ingredient of Section 295 of the IPC are missing that is injuring or defiling place of worship with intent to insult the religion of any class, taking note of the gravity of offences under Section 295 and 452 of the IPC which is non-bailable, further taking into account the severity of punishment prescribed for the aforesaid offences and taking note of nature of accusations and gravity of offences which the applicants are charged, are extremely serious, therefore, in the considered opinion of this Court, it is not proper to order release of present applicants on regular bail for the reasons mentioned herein-above. Accordingly, I hereby decline the prayer for bail made by the applicants. Consequently, both the applications are rejected."

9. Sri Trivedi, further relies upon the decision of the Karnataka High Court in **Shree Siddalingayya Mahaswami (Supra)**, specifically paragraphs 7, 8 and 10, which reads as under:-

"7. Perusal of the material on the record would go to show that petitioner is a person with criminal antecedent and multiple FIRs have been registered against him by various police stations, invoking offences punishable under [Sections 153A](#), [295](#) &

[295A](#) of IPC, along with other offences punishable under the [IPC](#) and also punishable under the provisions of BNS 2023.

8. [Section 153A](#) of IPC provides punishment for promoting enmity between two groups on the ground of religion, race etc. and doing acts prejudicial to maintenance of harmony, while [Section 295](#) of IPC provides punishment for injuring or defiling a place of worship with intent to insult the religion of any class. [Section 295A](#) of IPC provides punishment for deliberate and malicious acts intended to outrage the religious feelings of any class by insulting its religion or religious beliefs. Though learned counsel for the petitioner has submitted that out of the 19 cases registered NC: 2025:KHC-D:11366 HC-KAR against him, 16 criminal cases have been closed, no material has been produced along with this petition in support of the said contention. Petitioner has a history of giving deliberate public speeches intending to outrage the religious feelings of a community. In the programme that is scheduled to be held today i.e., 04.09.2025, petitioner is supposed to make public speech on the subject 'Jagrut Hindu Balista Bharata'.

9.

10. The respondent No.3 taking into consideration the history of criminal cases registered against the petitioner wherein he has allegedly committed offences punishable under [Sections 153A](#), [295](#), [295A](#) of IPC multiple times, based on the police report dated 27.08.2025, has passed the impugned order so as to prevent any danger to public tranquillity. In the order impugned itself, the respondent No.3 has made an observation that Siruguppa town has a history of communal disturbance and it is under these circumstances he has passed the preventive order against the petitioner, which cannot be found fault with. The NC: 2025:KHC-D:11366 HC-KAR 3rd respondent has observed that since the festivals of two communities are being celebrated at the same time, any act if committed prejudicial to communal harmony between different religions, there could be law and order problem and to avoid repetition of incidents that had happened during earlier years, as a precautionary measure, the order impugned is passed. In the memorandum of petition or during the course of arguments, petitioner has not stated that he has no intention to insult any religion or outrage the religious feeling of any class or community during the course of his proposed public speech. Under the circumstances, I am of the opinion that this petition does not merit consideration. Accordingly, the petition is dismissed."

10. Similarly, Sri Trivedi relies upon the decision of the Delhi High Court in **Dr. Ratan Lal (Supra)**, specifically paragraphs 22 to 28 and 29, which reads as under:-

"22. Perusal of provision of [Section 153A](#) of the IPC shows that the same criminalizes the act committed by a person that promotes enmity between different groups on grounds such as religion, race, language, caste, or community. The said provisions are intended to maintain public tranquility and communal harmony.

23. The said provision applies to any person who, through words (spoken or written), signs, visual representations, or any other act, seeks to create disharmony or feelings of hatred, enmity or ill-will between different groups. The said provision also encompasses acts prejudicial to the maintenance of harmony that may disturb public peace.

24. Moving further, perusal of [Section 295A](#) of the IPC shows that to constitute an offence thereunder, the act must be committed with deliberate intent and malicious purpose. The prerequisite to establish the commission of the said offence include the presence of mens rea similar to that under [Section 153A](#) of the IPC. Along with the criminal intent, there has to be a direct nexus with the act and its ability to insult or offend any religious belief. [Section 295A](#) of the IPC penalizes deliberate and malicious acts intended to outrage the religious feelings of any class of citizens by insulting their religion or religious beliefs.

25. This Court is of the view that [Section 153A](#) of the IPC mandate the presence of mens rea, requiring that the accused has acted with the malicious intent or knowledge that their actions could incite hatred or disrupt public tranquility and create disharmony. The same has also been observed by the Hon"ble Supreme Court in [Patricia Mukhim](#) (Supra), relevant paragraphs of which are extracted hereunder:

"..8. It is of utmost importance to keep all speech free in order for the truth to emerge and have a civil society."--Thomas Jefferson. Freedom of speech and expression guaranteed by [Article 19\(1\)\(a\)](#) of the Constitution is a very valuable fundamental right. However, the right is not absolute. Reasonable restrictions can be placed on the right of free speech and expression in the interest of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of Court, defamation or incitement to

an offence. Speech crime is punishable under Section 153-AIPC. Promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. and doing acts prejudicial to maintenance of harmony is punishable with imprisonment which may extend to three years or with fine or with both under [Section 153-A](#). As we are called upon to decide whether a prima facie case is made out against the appellant for committing offences under [Sections 153-A](#) and [505\(1\)\(c\)](#), it is relevant to reproduce the provisions which are as follows:.....

9. Only where the written or spoken words have the tendency of creating public disorder or disturbance of law and order or affecting public tranquility, the law needs to step in to prevent such an activity. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153-AIPC and the prosecution has to prove the existence of mens rea in order to succeed. [[Balwant Singh v. State of Punjab](#), (1995) 3 SCC 214 : 1995 SCC (Cri) 432]

10. The gist of the offence under Section 153-AIPC is the intention to promote feelings of enmity or hatred between different classes of people. The intention has to be judged primarily by the language of the piece of writing and the circumstances in which it was written and published. The matter complained of within the ambit of [Section 153-A](#) 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 [[Manzar Sayeed Khan v. State of Maharashtra](#), (2007) 5 SCC 1 : (2007) 2 SCC (Cri) 417] ..."

26. The scope of [Section 295A](#) of the IPC extends to acts committed in public or private that have the potential to disturb social order or ignite communal tensions by hurting religious sentiments which disrupt public peace and provoke communal disharmony. The same was observed by the Hon^{ble} Supreme Court in [Mahendra Singh Dhoni \(Surpa\)](#), relevant portion of which is as follows:

"...4. The seminal issue that arises for consideration is whether the allegations made in the complaint constitute an offence under [Section 295-A](#) IPC and whether this Court, in the obtaining factual matrix,

relegate the trial at some other place or grant him liberty to file an application under [Section 482](#) CrPC for quashing. At this juncture, we may refer to [Section 295-A](#) IPC which reads as follows:

"295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.-- Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

*5. Be it noted, the constitutional validity of [Section 295-A](#) was assailed before this Court in *Ramji Lal Modi v. State of U.P.* [*Ramji Lal Modi v. State of U.P.*, AIR 1957 SC 620 : 1957 Cri LJ 1006] which was eventually decided by a Constitution Bench. The Constitution Bench, advertent to the multiple aspects and various facets of [Section 295-A](#) IPC, held as follows : (AIR pp. 622-23, paras 8-9) "*

8. It is pointed out that [Section 295-A](#) has been included in Chapter XV of the Penal Code which deals with offence relating to religion and not in Chapter VIII which deals with offences against the public tranquillity and from this circumstance it is faintly sought to be urged, therefore, that offences relating to religion have no bearing on the maintenance of public order or tranquillity and consequently, a law creating an offence relating to religion and imposing restrictions on the right to freedom of speech and expression cannot claim the protection of clause (2) of [Article 19](#). A reference to [Articles 25](#) and [26](#) of the Constitution, which guarantee the right to freedom of religion, will show that the argument is utterly untenable. The right to freedom of religion assured by those articles is expressly made subject to public order, morality and health. Therefore, it cannot be predicated that freedom of religion can have no bearing whatever on the maintenance of public order or that a law creating an offence relating to religion cannot under any circumstances be said to have been enacted in the interests of public order. Those two articles in terms contemplate that restrictions may be imposed on the rights guaranteed by them in the interests of public order.

9. The learned counsel then shifted his ground and formulated his objection in a slightly different way. Insults to the religion or the religious beliefs of a class of citizens of India may, says the learned counsel, lead to public disorders in some cases,

but in many cases they may not do so and, therefore, a law which imposes restrictions on the citizens' freedom of speech and expression by simply making insult to religion an offence, will cover both varieties of insults i.e. those which may lead to public disorders as well as those which may not. The law insofar as it covers the first variety may be said to have been enacted in the interests of public order within the meaning of clause (2) of [Article 19](#), but insofar as it covers the remaining variety will not fall within that clause. The argument then concludes that so long as the possibility of the law being applied for purposes not sanctioned by the Constitution cannot be ruled out, the entire law should be held to be unconstitutional and void. We are unable, in view of the language used in the impugned section, to accede to this argument. In the first place, clause (2) of [Article 19](#) protects a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression "in the interest of public order", which is much wider than "for maintenance of"

public order. If, therefore, certain activities have a tendency to cause public disorder, a law penalising such activities as an offence cannot but be held to be a law imposing reasonable restriction "in the interests of public order" although in some cases those activities may not actually lead to a breach of public order. In the next place, [Section 295-A](#) does not penalise any and every act of insult to or attempt to insult the religion or the religious beliefs of a class of citizens but it penalises 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. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. It only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. The calculated tendency of this aggravated form of insult is clearly to disrupt the public order and the section, which penalises such activities, is well within the protection of clause (2) of [Article 19](#) as being a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression guaranteed by [Article 19\(1\)\(a\)](#). Having regard to the ingredients of the offence created by the impugned section, there cannot, in our opinion, be any possibility of this law being applied for purposes not sanctioned by the Constitution. In other words, the language

employed in the section is not wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative action affecting the fundamental right guaranteed by [Article 19\(1\)\(a\)](#) and consequently, the question of severability does not arise and the decisions relied upon by the learned counsel for the petitioner have no application to this case."

6. On a perusal of the aforesaid passages, it is clear as crystal that [Section 295-A](#) does not stipulate everything to be penalised and any and every act would tantamount to insult or attempt to insult the religion or the religious beliefs of a class of citizens. It penalises only those acts of insults to or those varieties of attempts to insult the religion or religious belief of a class of citizens which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class of citizens. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. The Constitution Bench has further clarified that the said provision only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Emphasis has been laid on the calculated tendency of the said aggravated form of insult and also to disrupt the public order to invite the penalty..."

27. Now adverting to the facts of the instant petition.

28. As per the status report, the FIR against the petitioner was registered on complaint of one Mr. Shival Bhalla after the petitioner posted a photo of Hindu deity indicating a „Shiva Linga", thereby, mentioning that "Yadi yeh Shiv Ling hai to Lagta hai shayad Shiv ji ka bhi khatna kar diya gaya tha". It has been alleged in the FIR that the said comment, in the form of visual representation, has been prejudicial to the maintenance of harmony between two different communities and has the potential to disturb public order and tranquility as it has been made with the intention to outrage feelings of a particular community by insulting their religious beliefs.

29. During the course of arguments, the learned APP has handed over a print out of the Facebook post made by the petitioner which has around 1000 comments and over 270 shares and submitted that even after registration of the impugned FIR, the petitioner has continued to make comments on the said post. In view of the same, subsequent complaints were received from Mr. Vasu Rukkhad, Mr. Jaspreet Singh

Matta and Mr. Dinesh Kumar Katheria and their statements were recorded under [Section 161](#) of the CrPC."

11. Sri Trivedi then has referred to the decision of this Court in **M/S Geo Miller & Co. Pvt. Ltd. (Supra)** where the religious significance of the river Ganga, not only for the Hindu religion but also for the country at large, has been highlighted. He relies upon paragraphs 1 to 10 of the said decision and the same are being quoted hereinbelow:-

"1. According to Hindu Mythology, Bhagiratha, a legendary king of the Ikshvaku dynasty, brought the River Ganga to Earth from heavens because only she could bestow nirvana to Bhagiratha's ancestors who were cursed by Sage Kapila. After years of great penance, River Ganga descended on Earth and Lord Shiva agreed to channelize her flow. Therefore, River Ganga flowed from Lord Shiva's hair. The place where the sacred river originated is known as Gangotri in present times, and since the river originated from Lord Shiva's Jata (hair) it is also called Jatashankari.

2. River Ganga is called by several names, including Jahnavi, Shubhra, Sapteshwari, Nikita, Bhagirathi, Alaknanda, and Vishnupadi.

3. It is believed that it flows from all the three worlds - Heaven/Swarga, Earth/Prithvi, and Hell/Patala. In Hinduism, the holy River Ganga is personified and personalized as Goddess Ganga. People believe that bathing in the pious Ganga can help wash all sins. It is also believed that a mere touch of the river can help attain moksha (salvation) and so the ashes of the dead persons are immersed in the sacred river so that the dead attains moksha (gange tav darshanarth mukti). There is no match to the everlasting divinity of holy river Ganga.

4. It is lifeline of India because it provides water to 40% of India's population. It is a source of irrigation for a wide variety of crops. Its basin has fertile soil that largely influences the agricultural economies of India and its neighboring country of Bangladesh. It also supports fishing industries, making it an agricultural and professional necessity for the livelihood of Indians.

5. Varanasi, Haridwar, Gangotri, Prayagraj, and Rishikesh are the prime religious destinations that have great religious significance for Hindus located at the Banks of river Ganga. Kumbh Mela is organized in Prayagraj and Haridwar. Ganga Arti takes place in twilight everyday at Rishikesh, Haridwar and Varanasi.

6. Adventure tourism is also organized in Rishikesh, such as river rafting, kayaking, and body surfing etc. The bathing ghats of Ganga are popular tourist attraction. Travellers often visit these ghats to bathe and witness the funeral rites and Ganga Arti.

7. Several yoga retreats have been established on the banks of River Ganga because of its calm and peaceful atmosphere. River Ganga is worshiped as Ganga Maa or Mother Ganges.

8. It is the longest river in India and it flows around 2525 kms from the Himalayan Mountains to Bay of Bengal. It has the second greatest water discharge in the world, and its basin is the most heavily populated in the world with over 400 million people living in it. The course of river begins in Himalayan Mountains where the Bhagirathi River flows out of the Gangotri glacier in Uttarakhand. The glacier is located at an elevation of 12,769 feet. In long stream, the Bhagirathi and Alaknanda rivers join. As the river Ganga flows out of the Himalayas, it creates a narrow, rugged canyon. From Rishikesh, it begins to flow onto the Indo-Gangetic Plain. As river Ganga then flows farther downstream, it changes its direction several times and is joined by many other tributary rivers such as Yamuna, Ramganga, Tamsa, and Gandaki Rivers. River Ganga flows out of India and into Bangladesh, its main branch is known as Padma River. Before entering the Bay of Bengal, the river creates the world's largest delta, Ganges Delta. This region is a highly fertile sediment-laden area that covers 23,000 square miles. Its overall length of drainage size is based on what tributary rivers are included. Its drainage basin is estimated to be about 4,16,990 square miles.

9. River Ganga basin has been inhabited by humans since ancient times. The first region Harappan civilization, who moved into the Ganges River basin from the Indus River basin around the 2nd millennium B.C.E. Later, the Gangetic plain became the center of the Maurya Empire and then the Mughal Empire. Megasthenes in his work Indica has discussed the importance and significance of river Ganga.

10. Despite being the lifeline of the nation, having been worshiped, providing sustenance to large population, over the time river has become highly polluted. According to the studies, it is one of the most polluted river in the world. Pollution of River Ganga is caused by both human and industrial waste due to rapid industrialization as well as religious events. Waste and raw sewage of population living in the river Ganga basin (400 Millions) is dumped into the river. Many people bath and use the river to clean their laundry. Studies have described bacteria level

near Varanasi at least 3000 times higher than what has been prescribed as safe by the World Health Organization."

12. This Court, while adjudicating upon a bail application, would not be called upon to address the larger issue of the significance of the river Ganges for not only the Hindu community but for the country at large. However, this Court wholeheartedly agrees with the submissions made by the Learned Additional Advocate General regarding the significance of the river Ganges not only to the Hindu community but also to the country at large. Disruption of religious harmony by the acts of a few may lead to a larger incident and the concern expressed by the Learned Additional Advocate General, by relying upon the decisions of different High Courts, is also, to my mind, not unfounded. The social media platforms, which disseminate information at lightning speed to every corner of the globe, have not only become a source of entertainment and information sharing but have also emerged as major hubs of disinformation. This Court is aware of the role that social media plays in disrupting the even flow of life, if misused. However, the Court, while considering the bail application of a person accused of an offence, must stick to the facts of the case, although bearing in mind the larger social issues.

13. The present case involves members of the Muslim community having a *Roza Iftar* party, and during the said *Iftar* party, while partaking of food, non-vegetarian food is said to have been consumed by the members of the Muslim community, who are then alleged to have thrown the remains into the River Ganges. This fact in the dispassionate opinion of the Court could rightly be said to hurt religious sentiments of the Hindu community. However, presently the matter engaging the attention of this Court is whether the applicants can be considered for release on bail during investigation and during trial. The Learned Additional Advocate General on the perusal of the police diaries states that the video in question was uploaded, supposedly through the account of one of the applicants Mohd. Tahseem having Instagram handle '*rocky_alex_0987*'. The offending video is said to have been taken down as it was violating the community guidelines of the platform. The applicants, in paragraph 14 of the affidavits filed in both applications, have expressed their sincere regrets. Paragraph No.14 of the affidavits in both bail applications is identical and

is being reproduced hereinbelow:-

"14. That the perusal of the first information report affirm and reaffirm that no offence is constituted under the alleged sections but without admitting the applicants and their family most sincerely regrets and feels pain of what has been alleged against them in view of the society at large."

14. In the *prima facie* opinion of the Court, the averments made in paragraph 14 of the affidavits show that the applicants are apologetic for their actions and even their families also regret the pain that had been caused to the society at large. This Court further understands that while facing prosecution in a criminal case, specific acceptance of the crime cannot be made by a person swearing an affidavit on behalf of the person, who has been incarcerated and while considering grant of bail an admission to the crime alleged is not warranted. However, the affidavits that have been filed in support of the bail application before the Court as well as the submissions of the Learned counsel for the applicants show genuine remorse for the actions attributed to the applicants.

15. The Learned Additional Advocate General, during the course of his arguments has pointed out that none of the applicants have denied being in the video. In the opinion of this Court, not denying being in the video and then expressing regrets show that the applicants genuinely accept what has been stated on affidavit and are not using the same as an excuse to escape the punishment of the law. The First Information Report was initially lodged for offences under sections 298, 299, 196(1)(b), 270, 279, 223(b) & 24 B.N.S. and Section 24 of the Water (Prevention and Control of Pollution) Act, 1974. None of the offences initially levelled against the applicants constituted punishment of more than seven years. During investigation, the boatman who was in charge of the boat where the said *Iftar* party had been conducted has disclosed to the police that he was threatened and his boat was forcibly taken over by the accused. The acts constituting extortion have been disclosed in his statement, which need not be detailed here in this order. However, it would be sufficient to note here that before registration of the case, the said boatman had not come forward to lodge any report or make any complaint regarding the extortion meted out to him. In the *prima facie* opinion of the Court, the

delay by boatman Anil Sahni in coming forward with the allegations of extortion creates a suspicion on his story.

16. The investigation, as apprehended by the Learned Additional Advocate General regarding the *Iftar* party being organised, the video being uploaded and the same being used to create religious disharmony being part of a larger conspiracy, in the opinion of the Court, would not be thwarted and the said investigation can continue without further detention of the applicants in prison. The applicants, who are in jail since 17.03.2026, as has been noted above, have expressed their regrets and have also undertaken never to repeat any such act in future, as is the submission of the Learned counsel for the applicants recorded above.

17. Taking note of the entire facts and circumstances of the case, the lack of criminal antecedents of the applicants, the period of detention already undergone and also the apology expressed, as recorded above, *prima facie* a case for bail is made out

18. The bail applications are ***allowed***.

19. Let the accused-applicants- **Mohd. Azad Ali, Mohd. Tahseem, Nihal Afridi, Mohd. Tauseef Ahmad and Mohd. Anas** involved in above mentioned case crime number be released on bail, on their executing a personal bond and two reliable heavy sureties each, in the like amount to the satisfaction of the court concerned, subject to the following conditions:

- i. The applicants will not tamper with the evidence.
- ii. The applicants will not indulge in any criminal activity.
- iii. The applicants will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
- iv. The applicants will appear regularly on each and every date fixed by the trial court, unless their personal appearance is exempted by the court concerned.

20. In the event of breach of any of the aforesaid conditions, the court below will be at liberty to proceed to cancel their bail.

21. It is made clear that the applicants shall be released on the basis of computer generated copy of this order, downloaded from the official website of High Court Allahabad and verified by the concerned counsel with the undertaking that the certified copy will be filed within 15 days.

22. It is further directed that the trial court shall send the release order to the concerned jail through Bail Order Management System (BOMS) to ensure early release of the applicant.

23. The observations made hereinabove are exclusively for deciding the instant bail application and are not to be considered to be an opinion on the merits of the case.

(Rajiv Lochan Shukla,J.)

May 15, 2026
Sachin