

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 21st OF DECEMBER, 2022

MISC. CRIMINAL CASE No. 60708 of 2022

BETWEEN:-

MIRZA MOZIZ BEG S/O ABDUL RAUF, AGED ABOUT 41 YEARS, OCCUPATION: TEACHER NEW GOVERNMENT LAW COLLAGE, BHAWARKUWA, INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRTI ABHINAV DHANODKAR - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION BHAWARKUWA, INDORE (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI K. K. TIWARI – GOVT. ADVOCATE)

This application coming on for admission this day, the court passed the following:

ORDER

This is first application under Section 438 of the Code of Criminal Procedure, 1973. The applicant is apprehending his arrest in connection with Crime No. 1214/2022 registered at P.S. - Bhanwarkua, Indore District – Indore for commission of offence punishable u/S 153-A, 153-B, 295-A, 500, 504, 505, 505(2), 34 of IPC.

As per prosecution story, present applicant Mirza Moziz Beg is the Professor of Government New Law College, Indore. Complainant

Lucky Adiwai, who is the student of LLM (second semester) in the aforesaid college, made a written complaint before police station – Bhanwarkua, Indore by stating that one book titled as “**Collective Violence and Criminal Justice System**” written by one Dr.Farhat Khan (accused no.1) and published by Amar Law Publication (accused no.4) and the contents of the book are based upon the false and baseless facts, ‘Anti- national, intended to harm the public peace; integrity of the nation, and religious cordiality. The allegation of the complainant is that the said book is available with the library of New Government Law College and the applicant along with the co-accused Dr. Inamur Rahman is trying to spread hatred through the said book. Present applicant along with the co-accused Dr. Inamur Rahman incited the students of the college to read the controversial book available with the library with intention to spread hatred in the mind of the students of Hindu religion. On the basis of the written complaint made by the complainant Lucky, offence has been registered at police station – Bhanwarkua, Indore under sections 153-A, 153-B, 295-A, 500, 504, 505, 505(2) read with section 34 of IPC.

Learned counsel for the applicant contended that the applicant is an innocent and has been falsely implicated in this case. He is only teaching the subject ‘Constitution’ to the law students as per the duty assigned to him by the principal of the aforesaid law college. The aforesaid book titled as “**Collective Violence and Criminal Justice System**” was neither purchased, nor preferred by the applicant for the purpose of teaching the students. He is neither looking after library section, nor he was the member of the purchase committee, during which the subject book was purchased, nor he tutored the said subject. The allegation levelled against him is

baseless and without any substance and only with ulterior motive to malice the reputation of present applicant. The book was purchased in the year 2014. Independent Inquiry Committee has also been setup under the supervision of Retired District Judge and until and unless the inquiry report is produce, no action may be taken against the applicant. No offence under Section 153-A and 505 of IPC is made out against the applicant. The applicant cannot be dragged into any kind of criminal prosecution as he is neither the writer nor the publisher and nor the purchaser of the book in controversy. Notice under Section 41-A of Cr.P.C. has not been served upon him by the Investigating Agency as per the directions issued by Hon'ble Supreme Court in the case of **Arnesh Kumar vs. State of Bihar reported in [2014(8) SCC 273]**.

In view of the judgment of Hon'ble Apex Court delivered in the case of **Patrica Mukhim v. State of Meghalaya reported in 2021 SCC Online 258** and **Zarina Begum vs. State of M.P, passed in M.Cr.C No. 80933/2020**, the offence is punishable of less than seven years. It is further contended that Hon'ble Supreme Court in the case of **Inamur Rahman Vs. The State of Madhya Pradesh** (passed in S.L.P. (Cr.) No.41448/2022, on 16/12/2022) granted stay of arrest of the co-accused Inamur Rahman in connection with the FIR No.1214/2022 lodged at police station – Bhanwarkua, Indore. The applicant is a permanent resident of District – Indore. In support of his contention, he also placed reliance upon the judgments delivered by the Hon'ble Supreme Court in the case of **Aparna Purohit Vs. The State of Uttar Pradesh & Anr.** passed in Criminal Appeal No.2235 of 2022 on 09/12/2022 and **Aparna Purohit Vs. The State of Uttar Pradesh & Anr.** passed in Special Leave to Appeal (Cr.) No.1983 of 2021 on 05/03/2021 and

09/12/2022. Under these circumstances, he prays that present applicant is entitled for grant of anticipatory bail.

Learned counsel for the respondent / State has opposed the application and prays for its rejection by submitting that if the applicant is released on anticipatory bail, he may abscond. The applicant held responsible post of Professor and his act is of tendency of provoking communal disharmony and promoting enmity between different groups on account of allegiance, therefore, the applicant does not deserve for anticipatory bail.

Perused the case diary as well as impugned order passed by the trial Court.

Considering all the facts and circumstances of the case, the nature of allegation and taking note of the fact that the allegation levelled against the present applicant is that being a Professor in the Law College he incited the students of the College to read controversial book available with the Library with an intention to spread hatred in the mind of student of Hindu religion; from perusal of the statement of the complainant Brajendra Singh, Dipendra, Ravi Pratap, Devesh, Kushal and other witnesses under Section 164 of Cr.P.C. it appears that present applicant is the Professor making statement which promotes enmity, hatred and ill-will between different sections of society, which hurts sentiment of Hindu community; act of the present applicant can disturb the communal peace of the society; it is also alleged that allegation levelled against the present applicant does not contain ingredients of Section 505(II) of IPC but investigation is still pending, therefore, it is not possible to decide that whether the statement and lecture delivered by the applicant amounts to an offence as contemplated under Section 505(II) of IPC or not; it is a matter of investigation.

Although co-accused Inamur Rahman has been enlarged on anticipatory bail in the instant case but case of the present applicant is different from the case of Inamur Rahman; co-accused Inamur Rahman is holding administrative post of Principal in the aforesaid Law College but present applicant is the Professor, who regularly teaches and delivers lectures to the students of the aforesaid Law College and being Professor he is in a position to incite the mind of the students and most of the important difference is that Hon'ble Supreme Court granted stay on the arrest of the co-accused Inamur Rahman in connection of the instant offence but no such protection has been provided to the present applicant; in view of the material evidence available on record against the applicant, this Court is not inclined to grant anticipatory bail to the applicant at this stage.

Accordingly, this first anticipatory bail application filed under Section 438 of Cr.P.C. has no force and is hereby dismissed.

Certified copy, as per rules.

(ANIL VERMA)
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