

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9747 of 2021

Applicant :- Dr. Shaharyar Ali

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ramesh Chandra Yadav, Ajay Yadav

Counsel for Opposite Party :- G.A.

Hon'ble J.J. Munir, J.

This is an application for anticipatory bail on behalf of the applicant, **Dr. Shaharyar Ali**, in connection with Case Crime No. 124 of 2021, under Section 505(2) IPC and Section 67A I.T. Act, Police Station - Ramgarh, District - Firozabad.

Heard learned Counsel for the applicant and learned A.G.A. appearing for the State through video conferencing.

It is submitted by learned Counsel for the applicant that he has been falsely implicated in the instant crime, at the instance of the informant, who is a Zila Mantri of the Bharatiya Janata Party, on account of animosity. It is urged that the applicant is a Professor in a degree college and Head of the History Department. It is argued that the objectionable and obscene post regarding Smt. Smriti Zubin Irani, Hon'ble Union Cabinet Minister of Textiles as well as Women and Child Development, has been done through a hacking of his Facebook ID, regarding which, he has expressed his apologies and also disowned the post. It is argued that the applicant is a respectable man with no criminal history and is, therefore, entitled to be enlarged on anticipatory bail, in the event of arrest.

Mr. Shashi Shekhar Tiwari, the learned A.G.A., has vehemently opposed the prayer for bail. He submits that the post carries an obscene comment about an Honourable Minister in the Central Government and a senior leader of a political party, which is a

statement made and circulated on the social media containing a rumour likely to promote hatred or ill will behaviour between different religious groups, an act punishable under Section 505(2) IPC. The applicant, being a responsible and a senior teacher in a college and a Head of Department, ought to have been cautious in writing a comment of the kind under consideration. It is submitted by the learned A.G.A. that the applicant is not entitled to anticipatory bail, considering his conduct.

This Court has considered the rival submissions. The question whether the applicant did actually post the offending and obscene post regarding the Hon'ble Minister is to be *prima facie* accepted at this stage, as there is no material to show that the applicant's account was, in fact, hacked. Rather, the applicant has posted his apology on that account, which shows that the account is *prima facie* still being operated by him. It is also apparent that this post was shared by co-accused in the crime, one Huma Naqvi, and the contents of the post are indeed such which may in fact, promote or in all likelihood of promoting ill-will or hatred between different communities.

In the *prima facie* opinion of this Court, looking to the fact that the applicant is a senior teacher in a college and a Head of Department, conduct of this kind *prima facie* does not entitle him to the indulgence of anticipatory bail. It is, however, not to say that this is an expression of opinion on the merits of the case. The applicant is entitled to surrender and seek regular bail, which shall be considered in accordance with law.

In the entirety of the circumstances, this Court does not find it to be a fit case to grant anticipatory bail. The application for anticipatory bail is hereby **rejected**.

In case, however, the applicant surrenders before the court concerned, his bail application shall be considered expeditiously and in accordance with law.

Order Date :- 25.5.2021

I. Batabyal