

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE**

HON'BLE SHRI JUSTICE DEVNARAYAN MISHRA

ON THE 16th OF JULY, 2026

M.Cr.C. No.29490 of 2026

SANDEEP KUMAR

Vs.

THE STATE OF MP

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Appearance

*Shri Vishal V. R. Daniel – Advocate and Ms. Apporva Singh Rajput -
Advocate for the applicant.*

Shri Pravanlaghn Pandey – Panel Lawyer for the respondent/State.
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ORDER

This is the first application filed by the applicant under Section 482 of Bharatiya Nagrik Suraksha Sanhita, 2023, seeking anticipatory bail in connection with Crime No.359/2026 registered at Police Station Barghat, District Seoni, for the offence punishable under Sections 353(2) and 353(3) of the Bharatiya Nyaya Sanhita, 2023.

2. Learned counsel for the applicant has submitted that the basic dispute of lodging the FIR was that a programme had been organized by U.S. Agro Seeds Company, in which, a devotional singer (bhajan gayika), namely Shahnaz Akhtar, was performing on the stage and the applicant

was conducting the programme as a Sanchalak (Host). During an interval in the performance, the applicant recited a couplet (doha) in poetic way that when two women of Lanka were discussing the matter relating to abduction of Mata Sita and it is alleged that he uttered some disrespectful words towards God Ram and Goddess Sita. He also played the so called video in his Tab.

3. Learned counsel for the applicant has submitted that in the same situation, Tulsidas in the *Ramchaitmanas* has written that fact in this form:

‘तव कुल कमल विपिन दुखदाई। सीता सीत निसा सम आई।।
सुनहू नाथ सीता बिनु दीन्हें। हित न तुम्हार संभु अज कीन्हें।।’

and has further submitted that the intention of the applicant was to state that Mandodari w/o Ravan herself was frightened by the abduction of Mata Sita. It is alleged against the applicant that he uttered some disrespectful words ‘सीता नाश कराएगी’, whereas in actual, he was narrating the conversation of frightened residents of Lanka. When objections were raised by certain persons, the applicant immediately apologized for that. A video recording of the applicant was also prepared, in which, he can be seen publicly apologizing and seeking pardon for the said words.

4. Learned counsel for the applicant has also submitted that the offence under Section 353(2) of the BNS, must contain false information or rumor or alarming news, but the said ingredient is not fulfilled in this case. In

support of his submissions, learned counsel for the applicant has relied upon the judgment of **Amish Devgan Vs. Union of India and others** reported in **(2021) 1 SCC 1**, in which, the Hon'ble Apex Court, in paragraph-73, has observed as under:-

‘73. On the aspect of content, Ramesh states that the effect of the words must be judged from the standard of reasonable, strong-minded, firm and courageous men and not by those who are weak and ones with vacillating minds, nor of those who scent danger in every hostile point of view. The test is, as they say in English Law, — “the man on the top of a Clapham omnibus”. Therefore, to ensure maximisation of free speech and not create “free speaker's burden”, the assessment should be from the perspective of the top of the reasonable member of the public, excluding and disregarding sensitive, emotional and atypical. It is almost akin or marginally lower than the prudent man's test. The test of reasonableness involves recognition of boundaries within which reasonable responses will fall, and not identification of a finite number of acceptable reasonable responses. Further, this does not mean exclusion of particular circumstances as frequently different persons acting reasonably will respond in different ways in the context and circumstances. This means taking into account peculiarities of the situation and occasion and whether the group is likely to get offended. At the same time, a tolerant society is entitled to expect tolerance as they are bound to extend to others.’

5. Reliance has also been placed in the judgment of **Imran Pratapgadhi Vs. State of Gujarat and another** reported in **(2026) 1 SCC 721**, particularly in paragraph Nos.53.8, 53.9 and 53.5 in which, it has been held that the right to freedom of speech and expression and the majority view should be considered together in such a way that the right to freedom of speech and expression is not affected. Paragraph Nos.53.8, 53.9 and 53.5 of the above judgment read as under:-

‘**53.8.** Free expression of thoughts and views by individuals or group of individuals is an integral part of a healthy civilised society. Without

freedom of expression of thoughts and views, it is impossible to lead a dignified life guaranteed by Article 21 of the Constitution. In a healthy democracy, the views, opinions or thoughts expressed by an individual or group of individuals must be countered by expressing another point of view. Even if a large number of persons dislike the views expressed by another, the right of the person to express the views must be respected and protected. Literature including poetry, dramas, films, stage shows including stand-up comedy, satire and art, make the lives of human beings more meaningful. The Courts are duty-bound to uphold and enforce fundamental rights guaranteed under the Constitution of India. Sometimes, we, the Judges, may not like spoken or written words. But, still, it is our duty to uphold the fundamental right under Article 19(1)(a). We Judges are under an obligation to uphold the Constitution and respect its ideals. If the police or executive fail to honour and protect the fundamental rights guaranteed under Article 19(1)(a) of the Constitution, it is the duty of the Courts to step in and protect the fundamental rights. There is no other institution which can uphold the fundamental rights of the citizens.

53.9. 75 years into our republic, we cannot be seen to be so shaky on our fundamentals that mere recital of a poem or for that matter, any form of art or entertainment, such as, stand-up comedy, can be alleged to lead to animosity or hatred amongst different communities. Subscribing to such a view would stifle all legitimate expressions of view in the public domain which is so fundamental to a free society.

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53.5. Clause (2) of Article 19 of the Constitution carves out an exception to the fundamental right guaranteed under sub-clause (a) of clause (1) of Article 19. If there is a law covered by clause (2), its operation remains unaffected by sub-clause (a) of clause (1). We must remember that laws covered by clause (2) are protected by way of an exception provided they impose a reasonable restriction. Therefore, when an allegation is of the commission of an offence covered by the law referred to in clause (2) of Article 19, if sub-section (3) of Section 173 is applicable, it is always appropriate to conduct a preliminary inquiry to ascertain whether a prima facie case is made out to proceed against the accused. This will ensure that the fundamental rights guaranteed under sub-clause (a) of clause (1) of Article 19 remain protected. Therefore, in such cases, the higher police officer referred to in sub-section (3) of Section 173 must normally grant permission to the police officer to conduct a preliminary inquiry.'

It is contended that in light of above cited cases and principle, the applicant be given the benefit of anticipatory bail.

6. Learned counsel for the respondent/State has opposed the anticipatory bail application and has submitted that the offence is grievous in nature and if the applicant is given the benefit of anticipatory bail, a wrong message will go to the society and in day-to-day life, the persons shall make irresponsible statements and that may hurt the sentiments of majority community and in these circumstances, the application deserves to be dismissed.

7. Heard the parties and perused the record.

8. It is worth mention here that the offence is punishable with imprisonment up to three years, or with fine, or with both. If the case is considered on the point of offence under Section 196 of the BNS, then a permission of the Collector/State Government/Central Government is required. From the video, it is clear that the applicant/poet has clearly stated that the inmates of Lanka or women of Lanka were discussing in such a way that Mata Sita will perish whole Lanka. In the context, in which the aforesaid couplet (doha) was recited, the word selection may not be proper, but at this stage, it cannot be said that the applicant was intending to hurt the sentiments of the public or wanted to create any mischief, riot, affray or disharmony among the people on the basis of religion.

9. Looking to the aforesaid factual aspects of the case and in light of law laid down in the above cited case, this Court deems it appropriate to

enlarge the applicant on anticipatory bail. Thus, without commenting anything on the merits of the case, the application is **allowed**.

10. It is directed that in the event of arrest, the applicant shall be enlarged on bail on his furnishing a personal bond in a sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the Arresting Officer/trial Court for his appearance before the concerned during the course of investigation or during trial, as the case may be.

11. It is further directed that the applicant shall abide by all the conditions as enumerated under Section 482(2) of BNSS.

12. Accordingly, the application stands disposed of.

Certified copy as per rules.

(DEVNARAYAN MISHRA)
JUDGE