

MHCC020025092020



IN THE COURT OF SESSION FOR GR. BOMBAY AT MUMBAI

ANTICIPATORY BAIL APPLICATION NO.277 OF 2021

Ambadi B.

Age – 22 years, Occ – Student,
R/o – Room NO.107, Hostel No.4,
Tata Institute of Social Sciences.
Deonar, Mumbai - 88

... Applicant

Versus

The State of Maharashtra
(At the instance of Police Station,
Azad Maidan,
C.R.No.28/2020)

... Respondent

Appearance:

Adv. for applicant - Mr. Vijay Hiremath.

Adv. for respondent – Mrs. Rashmi Tendulkar, Addl. PP.

CORAM : HIS HONOUR ADDL.SESIONS
JUDGE M. G. DESHPANDE
(C.R.No.16)

DATED : September 8,2021

ORDER

1. Applicant Ambadi B. is one of the accused persons in C.R.No.28 of 2020 registered with Azad Maidan Police Station under Sections 124A,153B and 505 r.w. 34 of I.PC. He is praying protection under Section 438 of Cr.PC. By making order dt.12.02.2020 absolute, which was passed by my Ld. Predecessor and interim protection was granted to the applicant by my Ld. Predecessor. Same is continued till date. Prosecution vide say (Exh.2) by police officer of Azad Maidan Police Station, Mumbai opposed the application contending that investigation in respect of connection between the present applicant

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and Sherjil Imam is to be made and verified. Investigation to find out how many and which plans have been made by the applicant to affect unity of the nation. There are other 50-60 accused persons, whose names and involvements in the crime are to be confirmed. On the basis of these three grounds it is contended that custodial interrogation of the applicant is necessary. With this, it is contended to reject the application.

2. This Hon'ble Committee directed this Court clear all Anticipatory Bail Application wherein interim protection was granted. In this case my Ld. Predecessor vide his order dt.12.02.2020 granted interim protection to this accused and the same in continued till date.

3. Heard Ld. Adv. Mr. Vijay Hiremath for the accused and Ld. Add.PP Mrs. Rashmi Tendulkar at length. Also heard Investigating Officer and carefully gone through the record of investigation maintained by him. Following points arise for my determination. I am recording following findings thereon for the reasons discussed below :-

POINTS	FINDINGS
1. Whether the accused has made out a strong prima-facie case for making the order dt.12.02.2020 absolute ?	Yes
2. What Order ?	Application is allowed

REASONS

POINTS NO.1 AND 2.

4. THE FACTS INVOLVED IN C.R.No. 28 OF 2020.

One Ravindra Abasaheb Mohite, A.P.I., Azad Maidan Police Station lodged FIR alleging that 'Queer Azadi' society had scheduled to

be arranged awareness programme in respect of health and human rights of sexual minority people. It was scheduled at 15.00 hours and the informant was deputed for the same. One Mr. Surabh Bondre had taken permission dt.30.01.2020 for the said programme. Accordingly, police force/Bandobast was deputed at the place of programme, wherein the informant was on duty. Around 03.00 p.m. 3000 members of 'Queer Azadi' association gathered at the place of the said programme. There were many small groups. Many of them were giving slogans. At 06.00 p.m. the said programme was over and all of them left the said place. On 02.02.2020 when the informant was on duty came to know from Twitter that one woman in the programme dt.01.02.2020 at Azad Maidan had given slogans against nation. Clip of the said video was spread on social media. One woman was giving slogan as “शरजील तेरे सपनोको” which was responded in chorus by 50-60 persons as “हम मंजिल तक पहुँचाएंगे”. All of them were clapping and supporting those slogans. It is further alleged that Sherjil Imam is involved in many crimes of sedition registered against him.

5. It is further directed that the informant had watched the speech given by said Sherjil on internet. According to him, the said speech was reflecting hate and attracting offence of sedition. Hence, Sherjil Imam was arrested by Delhi Police for the given offence. As the said group of 50-60 people, including the lady namely Urvashi were supporting Sherjil Imam, are alleged as accused. On further collecting information the informant came to know that said woman Urvashi resides at Old Camps, Ladies Hostel, TISS, V.N. Purav Marg, Deonar, Mumbai. Accordingly, Investigating Agency had obtained opinion of Assistant Director and Public Prosecutor, BrihanMumbai; whether Section 124A can be levelled against the applicant and others. The said

authority given opinion in the affirmative. Therefore, according to the prosecution FIR is launched and offence under Section 124A, 153B, 505 r.w. 34 of I.P.C. is serious, hence, the order of interim protection be vacated and anticipatory bail be rejected.

6. It has to be noted that main allegations are against Urvashi Chudawala, whose anticipatory bail application was rejected by my Ld. Predecessor. The said Urvashi Chudawala preferred A.B.A. No.342/2020 before the Hon'ble High Court and interim protection was granted by the Hon'ble High Court on 11.02.2020.

7. Careful perusal of FIR indicates that there is a clear mentioned as 'एक महिला' i.e only one woman Urvashi was giving slogans and group was responding the same by clapping in chorus. The main accused Urvashi Chudawala is already enjoying the interim protection granted by the Hon'ble High Court. Careful reading of the FIR and the file of investigation prim-facie indicates that the informant had watched the speech of Sherjil Imam on social media and realized that this accused along with others are his supporters, hence, committed offence of sedition. Basically there is nothing before the court to even hold that the present applicant was part of the said assembly and gave anti-nation slogans attributing sedition. The main accused whose name is appearing in the FIR as 'एक महिला' Urvashi Chudawala was giving slogans has been granted interim protection. There is nothing before the Court to hold that the role of present accused is identical to the role of the said Urvashi.

8. It has to be noted that since my Ld. Predecessor granted interim protection one and half years ago, the investigating agency has

not initiated any proceedings to point out involvement of accused in any other crime or this accused had committed any breach of conditions of interim protection granted by my Ld. Predecessor. Even the clip which had allegedly become viral on twitter as alleged in the FIR, is not produced before the Court to know the real circumstances of transaction. Therefore, in my opinion the prosecution is utterly failed to point out the role attributed to the present accused and the same amounts offence under Section 124A,153B and 505 r.w. 34 of I.PC as alleged. The survey of applicability of Sections on the given facts can be done at the stage of bail and anticipatory bail. The same nowhere indicates the active role of the present accused to contribute any of the offences mentioned in the FIR.

9. Ld. Adv. Mr. Vijay Hiremath submitted that the applicant is from Kerala and can not understand Hindi which can not be ignored. He is student of Tata Institute of Social Sciences. His age is 22 years and education is in progress. Arrest has far reaching consequences as the same may spoil the career of the student forever. If the application is rejected the same will cause irreparable loss to the applicant. At the cost of repetition it has to be noted that there is nothing before the Court to indicate involvement of the accused in the offence allegedly against him. Even the role of the present accused is different from the role of Urvashi. When the applicant is protected by interim order from one and half years, rejection of the application will drag him in another difficulty by spoiling his career. Hence, I hold that applicant has made out a strong prima-facie case for confirming the interim protection order passed by my Ld. Predecessor. Hence, point No.1 is answered in the affirmative and following order is passed :-

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ORDER

1. Anticipatory Bail Application No.277 of 2020 is allowed.
2. Interim order dt.12.02.2020 is hereby made absolute with all the conditions directed therein.

Dt.: 08.09.2021

(M.G. Deshpande)
Addl. Sessions Judge.
C.R.No.16, Gr.Bombay at Mumbai

Dictated on : 08.09.2021
Transcribed on : 08.09.2021
Signed on : 08.09.2021

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”	
09.09.2021 at 18.00 hours UPLOAD DATE AND TIME	(KISHOR PRAKASH SHERWADE) NAME OF STENOGRAPHER
Name of the Judge	HHJ M. G. DESHPANDE (COURT ROOM NO.16)
Date of pronouncement of judgment/order	08.09.2021
Judgment/order signed by P.O. on	08.09.2021
Judgment/order uploaded on	09.09.2021