

**Court No. - 15**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 10506 of 2023

**Applicant :-** Maulana Mohammad. Shabib Hussain @ Syed Mohd. Shabibul Husaini

**Opposite Party :-** State Of U.P. Thru. Addl. Chief Secy. Lko

**Counsel for Applicant :-** Pranshu Agrawal, Chandan Srivastava

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mohd. Faiz Alam Khan, J.**

1. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Maulana Mohammad. Shabib Hussain @ Syed Mohd. Shabibul Husaini** for grant of bail, in Case Crime No. 62/ 2023, under Sections 115/ 120-B/ 153-A/ 153-B/ 386/ 504/ 506/ 505(2) I.P.C. and Section 66 of the Information Technology Act, Police Station- Chowk, District- Lucknow, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The statement which was allegedly given by the applicant has not been placed in the social media in right perspective and the same has been clarified by the applicant with promptness and the clarification was also circulated in the social media. In this regard, learned counsel for the applicant has highlighted the statement of *Sahil Naqvi*, the Bureau Chief of INN Channel, who allegedly have covered the event wherein the applicant has allegedly given the impugned statement.

4. Highlighting the statement of *Sahil Naqvi*, it is vehemently submitted that it has been specifically stated by this star witness of the crime that by the impugned statement, the applicant was only explaining the difference between '*Murtade Fitri*' and '*Murtade Milli*', terms used with regard to certain offenders of particular crime. Learned counsel for the applicant has drawn the attention of this Court towards Para Nos. 9 and 10 of the bail application wherein these terms (generally used in the

religious texts) have been explained in order to show that the statement was given by the applicant with regard to a hypothetical situation, having regard to the religious sanctity and the same was explained in its right perspective with utmost promptness and subsequent clarificatory statement of the applicant was also telecasted by the same News channel as is also evident in the statement of *Sahil Naqui*, the bureau chief of INN TV channel.

4. It is further submitted that the informant is himself accused of giving hate speeches and in this regard, about 30 criminal cases have been registered against him and the text messages or whats-app messages, which the informant has stated to be receiving on his mobile phone, may be the result of those hate speeches which he had earlier made and the same may not be related with the applicant.

5. It is next submitted that applicant is in jail in this case since 01.08.2023 and he is not having any criminal antecedents, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty and the material which has been collected during investigation would not attract any of the penal provision wherein the charge sheet has been submitted.

6. Learned A.G.A., on the other hand, opposes the prayer of bail of the applicant on the ground that the statement of the applicant was given with a view to ignite the religious sentiments of a particular community and thereafter, the informant started receiving intimidating texts and whats-app messages and also intimidating phone calls and therefore, keeping in view the heinousness of the offence, the applicant is not entitled to be released on bail.

7. Having heard learned counsel for the parties and having perused the record, it is reflected that the allegations against the applicant are pertaining to making a statement with regard to beheading the informant on account of certain statements given by him pertaining to the religious book of a community. The defence of the applicant appears to be that at the relevant point of time, he was answering a question with regard to the provisions contained in the religious texts on the happening of a hypothetical situation and in this regard, the terms '*Murtade Fitri*' and '*Murtade Milli*' has been highlighted along with its

explanation and interpretation, which has been made in para Nos. 9 and 10 of the bail application. It is also submitted that with utmost promptness, applicant issued a clarificatory statement which was also telecasted. Admittedly, the informant is himself accused of making hate speeches and it has not been disputed that in this regard, about 30 criminal cases have been lodged against him. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 01.08.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions. Nothing has been placed before this Court through counter affidavit filed by the State, which may justify the further detention of the applicant in prison vis a vis the material collected during the course of investigation. Applicant is also not a flight risk.

8. Having regard to the overall facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

9. Let the accused/applicant- **Maulana Mohammad. Shabib Hussain @ Syed Mohd. Shabibul Husaini** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iv) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code;

(v) In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him in accordance with law, under Section 174-A of the Indian Penal Code; and

(vi) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

12. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

**Order Date :- 10.1.2024**

Gurpreet Singh