

**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. 58756 of 2022

BETWEEN:-

DR. INAMUR RAHMAN S/O LATE SHRI MUNIR KHAN, AGED ABOUT 63 YEARS, OCCUPATION: PRINCIPAL GOVERNMENT LAW COLLEGE CHD, 637, SUKHLIYA INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI ABHINAV DHANODKA - ADVOCATE)

AND

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

.....RESPONDENT

(SHRI K. K. TIWARI – ADVOCATE FOR THE RESPONDENT/STATE AND SHRI SHRI NEERAJ GAUTAM AND SHRI HIMANSHU NAGDA – ADVOCATES FOR OBJECTORS)

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 **Dr. Inamur Rahman**

Signature Not Verified
Signed by: AMOL N
MAHANAG
Signing time: 12/21/2022
7:55:56 PM

the Principal of Government New Law College, Indore and also the

Dean and Chairman of Devi Ahilya Vishwa Vidhyalaya, Indore. Complainant Lucky Adiwal, 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 the 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 Mirza Moziz Beg is trying to spread hatred through the said book. Present applicant along with the co-accused Mirza Moziz Beg incited the students of the college to read the controversial book available with the library with an 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 against the applicant 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. After receipt of the complaint by one of the organization on 01/12/2022, he has taken immediate action and issued office order, whereby five persons including the co-accused Mirza Moziz Beg were sent on leave and independent committee has been appointed to inquire the whole incident and two of the retired District Judge have been appointed as inquiry officer. He has again

issued order to the Librarian regarding the book and directed him to

remove it from the Library and keep the same in safe custody. The applicant was posted as Principal on 29/08/2019, but the book was purchased prior to his appointment in the year 2014. The applicant cannot be dragged into any kind of criminal prosecution as he is neither the writer nor the publisher and not the purchaser of the book in controversy. No ingredient of Section 153-A, 153-B, 295-A, 500, 504 505, 505(2), 34 of the IPC made out in the FIR. Notice under section 41-A of Cr.P.C has not been served upon him by the Investigating Agency as per the direction issued by Hon'ble Apex Court in the of the **Arnesh Kumar vs. State of Bihar reported in [2014(8) SCC 273]**.

Learned counsel further contended that the applicant has completed 36 years of service in the field of academic. 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 the applicant has moved SLP (Cri) before the Hon'ble Supreme Court and *vide* order dated 16/12/2022, the Court has directed that there shall stay of arrest of the applicant in connection with the FIR No.1214/2022 lodged at police station – Bhanwarkua, Indore. The applicant is a permanent resident of District – Indore. Under these circumstances, he prays that present applicant be enlarged on anticipatory bail.

Per-contra, learned counsel for the objector Lucky Adiwai opposed the anticipatory bail application and prays for its rejection by submitting that the allegations in the FIR registered against the applicant are serious in nature and related to internal and external security of the nation. The applicant alongwith the co-accused incited the students of the college to

read the controversial book with intention to spread hatred in the mind of the students against Hindu Religion, RSS and nation. The *modus operandi* operated by the accused persons in the present case is to use college as a tool to promote their religious propaganda by forcing the students to read the books contains, false and baseless, controversial material against the Hindu religion. Investigation is pending. The applicant is absconding for long time and not supporting the investigating agency. If he is released on anticipatory bail, he will influence and hinder the investigation, hence he prays that, this anticipatory bail application be dismissed.

Learned counsel for the objector Ashish Kadam also opposed the anticipatory bail application and prays for its rejection by submitting that the applicant has misguided the students making statements, which promotes enmity and hatred and ill-will between different sections of the society, therefore, he does not deserve for anticipatory bail.

Learned counsel for the respondent / State has also 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 Principal 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 present applicant was holding administrative post of Principal in the aforesaid Law College and being the Principal, he has taken immediate action and issued office order whereby five persons including co-accused Mirza Moziz Beg were sent on leave and

dependent committed has been appointed to inquire the incident; he also

issued order to the Librarian regarding the book in question and directed him to remove it from the Library; Hon'ble Supreme Court *vide* order dated 16.12.2022 has given interim protection to the applicant and directed that there shall be stay of arrest of the applicant in connection with FIR No.1214/2022 registered at Police Station Bhawankuwa, Indore; such protection is still continuing and SLP (Cr.) is still pending before the Hon'ble Supreme Court, therefore, considering all the facts and circumstances of the case and in view of the interim stay order passed by Hon'ble Supreme Court in favour of the applicant in respect of his arrest, without commenting upon the merits of the case, present application for grant of **anticipatory bail is hereby allowed.**

It is directed that in the event of arrest, the applicant be released on anticipatory bail on his furnishing personal bond in the sum of **Rs.1,00,000/- (Rs. One Lac Only)** along with one surety in the like amount to the satisfaction of arresting officer for his appearance before the Investigating Officer during the course of investigation as and when directed.

However, all the conditions of Section 438(2) Cr.P.C. shall also apply on the applicant during currency of bail.

With the aforesaid, the application stands **disposed of.**

Certified copy, as per rules.

(ANIL VERMA)
J U D G E

amol