



2025:AHC:173870

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 21835 of 2025

Sajid Chaudhary

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

| | | |
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| Counsel for Applicant(s) | : | Ajay Kumar Pandey, Alok Singh |
| Counsel for Opposite Party(s) | : | G.A. |

Court No. - 87

HON'BLE SANTOSH RAI, J.

1. Rejoinder affidavit filed, today in Court, on behalf of the applicant is taken on record.
2. Heard learned counsel for the applicant and learned AGA for the State-respondents and perused the record.
3. This bail application has been moved on behalf of accused-applicant Sajid Chaudhary seeking enlargement on bail in Case Crime No.134 of 2025, under Section 152 B.N.S., Police Station- Parikshitgarh, District- Meerut.
4. Learned counsel for the applicant submits that the accused-applicant is innocent. Applicant is languishing in jail since 13.5.2025. He has been falsely implicated in this case due to ulterior motive. It is submitted that only the post regarding 'Pakistan Zindabad' was said to be forwarded by the applicant and he has not posted/circulated any video anywhere. It is further submitted that the accused applicant no criminal antecedents and conclusion of trial will take sufficiently long and there is no likelihood of accused applicant fleeing from course of justice or tampering with evidence in case of release on bail. Hence, bail has been prayed for.
5. Learned AGA has vehemently opposed the prayer for grant of bail and submits that the applicant is a separatist. It is submitted that the applicant has committed this type of offence previously also but it is admitted that applicant has no criminal history to his credit. In the counter affidavit, it is submitted that the applicant made a comment on the post of a person from Pakistan. On inquiry of his facebook id it was found that earlier he tried to

commit such offence and has endanger the integrity and sovereignty of India. In the post he stated 'Kamran Bhatti Proud of You, Pakistan Zindabad'.

6. In the supplementary affidavit, the copy of the social media post is also annexed in which the fact regarding 'Pakistan Zindabad' has been mentioned therein.

7. Learned AGA has not submitted any evidence regarding whether the accused applicant has stated any statement which is against the integrity and sovereignty of India. He admitted the fact that the accused applicant has not stated any such kind of statement.

8. Section 152 BNS is a new Section providing stringent punishment and there was no corresponding section in IPC, therefore, before invoking the Section 152 BNS, reasonable care and standards of reasonable person should be adopted as spoken words or posts on social media is also covered by the liberty of freedom of speech and expression, which should not be narrowly construed unless it is of such nature which effect the sovereignty and integrity of a country or encourages separatism. For attracting the ingredients of Section 152 BNS, there must be purpose by spoken or written words, signs, visible representations, the electronic communication to promote secession, armed rebellion, subversive activities or encourages feeling of separating activities or endangers the sovereignty, unity and integrity of India. Therefore merely posting a message to simply shows supporting of any country may create anger or disharmony among citizens of India and may also be punishable under Section 196 BNS which is punishable up to seven years but definitively will not attract the ingredients of Section 152 BNS.

9. The Apex Court in the case of **Imran Pratapgadhi vs State of Gujarat and another; 2025 SCC OnLine SC 678**, has observed that liberty of thought and expression is one of the cornerstone ideals of our Constitution. Article 19(1)(a) confers a fundamental right on all citizens to freedom of speech and expression. Police Officers being citizens, are bound to abide by the Constitution. We are bound to honour and uphold freedom of speech and expression conferred to all citizens. It is further observed by the Apex Court that before registering a case regarding a post on social media, it should be looked into as a reasonable man and decision should be based on standards

of reasonable, strong-minded, firm and courageous individuals and not based on standards of people with weak and oscillating minds.

10. Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the applicant, keeping in view the uncertainty regarding conclusion of trial; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India, considering the paragraph no.53 of Apex Court in the case of **Manish Sisodia Vs. Directorate of Enforcement 2024, (SC) LawSuit 677** and considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime be released on bail on his furnishing personal bond and **two heavy sureties** each in the like amount to the satisfaction of the court concerned with the following conditions that:-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC/269 BNS.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C./84 of BNSS 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 IPC/209 of BNS.

(v) 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./351 of B.N.S.S. If in the opinion of the Trial Court absence of the applicant is deliberate or without

sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

12. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

September 25, 2025
RA

(Santosh Rai,J.)