

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2886 of 2023

Applicant :- Mohd. Rehan

Opposite Party :- State Of U.P. Thru. Prin. Secy./Addl. Chief Secy. Home Lko.

Counsel for Applicant :- Aftab Ahmad, Nikhil Pathak, Sheeran Mohiuddin Alavi, Vikas Vikram Singh

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State as well as perused the record.
2. The present bail application has been filed by accused-applicant seeking bail in Case Crime No.342 of 2022, under Sections 121-A, 153-A, 295-A I.P.C., P.S. Bakshi Ka Talab, District Lucknow.
3. It is alleged in the prosecution case that informant State thru Hemant Bhushan Singh has given information on the basis of recovery memo alleging therein that since last few days, UPSTF had been receiving information that few members of Popular Front of India are provoking the Muslims for religious orthodoxies, killing of Hindus, making India a Muslim nation, aggravate religious disharmony agenda, reestablishing Babari Masjid. On 27.09.2022, on the basis of information of an informer, nabbed three person. First of them disclosed his name as Mohd. Faizan from whose possession one Mobile Redmi Note 9 Pro, one Urdu book, one english document whereupon India 2047 towards rule of Islam in India was written on first page and matter regarding transforming India as Islamic nation was written in other pages, other document of six pages whereupon on the first page "then fight and slay the pagans wherever you find them and seize them beleaguer them and lie in wait for them in every stratagem (of war)" and "A short

course on how to make IEDs using easily available materials", description note of training related to IED on second and third page, training material book- 2 on fourth page, description of explosive source on fifth page, photograph of disputed Babari Maszid and other riots on sixth page, was found. He stated himself to be connected with PFI organization and stated further that on the say of his brother Arshad, he took surety of bail for Area commander of PFI and PE Trainer Mohammad Firoz, whom he knew through PFI. Second person stated his name as Mohd. Rehan from whose possession one mobile phone, Passport, AADHAR Card, Voter Card, Driving license, PAN Card, SBI Debit Card, TCS AL-ETIHAD S No. 0720771, ERSAL Card File No. 10526217, SBI Account Pass-book, Canara Bank Pass-book, one english document whereupon India 2047 towards rule of Islam in India was written on first page and matter regarding transforming India as Islamic nation was written in other pages, other document of six pages whereupon on the first page "then fight and slay the pagans wherever you find them and seize them beleaguer them and lie in wait for them in every stratagem (of war)" and "A short course on how to make IEDs using easily available materials", description note of training related to IED on second and third page, training material book-2 on fourth page, description of explosive source on fifth page, photograph of disputed Babari Maszid and other riots on sixth page, was found, which is used to be given for distribution amongst Muslims. He stated himself to be connected with PFI and further stated that on the say of Pradhan Ji Arshad, he stood as surety in the bail of PFI Member and PE Trainer Mohammad Anshad, whom he knew through PFI. Third person disclosed his name as Sufiyan from whose possession one mobile Realme, Driving License, Allahabad Bank Rupay Debit Card and cash of Rs. 8400/- were recovered.

One document whereupon India 2047 towards rule of Islam in India was written on first page and matter regarding transforming India as Islamic nation was written in other ses, other document of six pages whereupon on the first page "then fight and slay the pagans wherever you find them and seize them beleaguer them and lie in wait for them in every stratagem (of war)" and A short course on how to make IEDs using easily available materials", description note of training related to IED on second and third page, training material book-2 on fourth page, description of explosive source on fifth page, photograph of disputed Babari Maszid and other riots on sixth page, were recovered, which is used to be given for distribution amongst Muslims. Upon checking mobile of Sufiyan, it was found that he is indulged in transaction of several objectionable messages through WhatsApp wherein Muslims are asked not to remain silent on the arrest of national leaders of PFI by NIA and ED, provoking literature and links were also found which included a link wherein Iadia with PFI dated 29.09.2022 was also found. From the possession of Sufiyan, a motorcycle regn. UP32EH1304 Hero Honda Super Splendor was also recovered of which he could not provide papers. All the persons stated themselves to be the members of PFI and further exclaimed that their mission is to provoke the Muslims to become orthodox, challenge the unity and fraternity of the nation, spread social hatred, make members in various parts of India, destroy Indian nation to transform it as Islamic nation till the year 2047, killing Hindus exclaiming them as Kafirs, distributing such literature amongst Muslim which could provoke them for religious Jihad so that Hindus can be extinguished, muslim population be increased, Hindu religion may get damaged and they can evolve as political power. They also hold an object to intrude in Hindu organizations and Rashtriya Swayam Sewak Sangh to receive

sensitive informations. Apprehended persons were arrested at about 18:10 hours.

4. Learned counsel for applicant submits that mere recovery of pamphlets which are being objectionable content against the State is not enough to invoke Section 121-A IPC. In support of his contention, he has relied on the judgment passed by Supreme Court in the case of ***Vernon vs. State of Maharashtra and another : Criminal Appeal No.639 of 2023*** decided on 28.07.2023. As regards the other offences under Sections 153-A, 295-A IPC, he submits that in these sections maximum sentence is up to three years and the applicant is already languishing in jail for the last one year and eight months thus, he has incarcerated enough. Applicant has no previous criminal history. Charge-sheet in the case has been filed however, till date trial has not commenced. Applicant undertakes to cooperate in the trial.

5. Learned A.G.A. has opposed the bail prayer.

6. On due consideration to the submissions advanced, perusal of the record as also the judgments of Supreme Court in the case of ***Vernon*** (supra) as well as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another : Criminal Appeal No.2787 of 2024***, and the fact that applicant has no criminal history, applicant is in jail since 27.09.2022 and till date trial has not commenced, without expressing any opinion on merits of the case, I find it to be a fit case for enlarging the applicant on bail.

7. Accordingly, the bail application is **allowed**.

8. Let the applicant ***Mohd. Rehan*** be released on bail in aforesaid case crime number subject to his furnishing a personal bond and two reliable sureties each in the like amount to the

satisfaction of the trial court concerned with the following conditions:

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not pressurize/ intimidate the prosecution witness.

(iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iv) 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.

(v) 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.

(vi) 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. 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.

Order Date :- 25.7.2024
Saurabh Yadav/-