



2025:AHC:159139

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 24026 of 2025

Savej

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Bipin, Vimlesh Kumar Dubey
Counsel for Opposite Party(s) : G.A.

Court No. - 87

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the applicant; learned AGA for the State and perused the record.

2. The instant bail application has been filed on behalf of the applicant, Savej, with a prayer to release him on bail in Case Crime No. 149 of 2025, under Sections 353(2), 147, 152, 196, 197(1)(d) of B.N.S. and Section 13(A) of Unlawful Activities (Prevention) Act, Police Station Bhopa, District Muzaffarnagar, during pendency of trial.

3. Learned counsel for the applicant has submitted that accused-applicant has not committed any offence as mentioned in the First Information Report. He further submits that FIR is totally false and the same has been concocted in order to humiliate and to harass. He further submits that applicant was arrested during the course of investigation on the basis of suspicion only. He further submits that recovery of mobile phone was totally false and no independent witness has been examined by Investigating Officer during the course of investigation. He further submits that after an sided and biased investigation, the Investigating Officer has submitted charge-sheet against the applicant for the offence punishable under Sections 353(2), 147, 152, 196, 197(1)(d) of B.N.S. and Section 13(A) of the Unlawful Activities (Prevention) Act, which are not made out against the applicant. He has no criminal history to his credit and is languishing in jail since 10.05.2025. In case, the applicant is released on bail, he will not misuse the liberty of bail.

4. Per contra learned A.G.A. has opposed the prayer for bail of the applicant

by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. He further contended that accused applicant has committed a very serious offence. He further submits that applicant circulated the video which was prepared in Pakistan and due to conduct and behaviour of the accused-applicant, the National Security and the social order was adversely affected. He further submits that there is no any other criminal history against the accused-applicant and the charge-sheet has already been filed in this case after the conclusion of the investigation. In the FIR, accused applicant Savej is named and it has been mentioned in the FIR that video which was prepared in Pakistan circulated in the society which may be disturbed communal rest. It is an admitted fact that video was not created by the accused-applicant through his mobile phone which was said to be recovered during the course of investigation, but he has only circulated it. In case, the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

5. Sections 147, 152 196 of B.N.S., 2023 reads as under:

"Section 147 – Waging, or attempting to wage war, or abetting waging of war, against the Government of India- Whoever wages war against the Government of India, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine.

Section 152 – Acts endangering sovereignty unity and integrity of India - Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine."

Section 196 - promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony, further more Section 197(1)(d) makes or publishes false or misleading information, jeopardizing the sovereignty, unity and integrity or security of India"

6. From the perusal of the evidence collected during the course of investigation, it appears that in *WhatsApp* status, a video was circulated by the accused-applicant, in which adverse comment was done against the Prime Minister of India. The applicant has no any kind of previous criminal history and the chargesheet has already been filed in this case as submitted by the prosecution.

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

8. Considering the dictum of Apex Court in the case of **Manish Sisodia Vs. Directorate of Enforcement, 2024 LawSuit (SC) 677**, 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 a 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 I.P.C./269 B.N.S.
- (iv) In case the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C./84 B.N.S.S. is issued and the applicants fail 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 under Section 174-A I.P.C./209 B.N.S.

(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 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.

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

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

(Santosh Rai,J.)

September 9, 2025
A.N. Mishra