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# THE HIGH COURT OF JUDICATURE AT BOMBAY CRIMINAL APPELLATE JURISDICTION

## Anticipatory Bail Application No.1932 of 2025

Farah Deeba Syed Shamin Ahmad

Age: 46 yrs,

R/at B7/801, Margosa Society

Mohammed Wadi Pune

... Applicant

Versus

The State of Maharashtra

(Through the Sr PI Kalepadal

police station)

... Respondent

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Mr Wesley Menezes i/by Waqar Pathan, for the applicant.

Mr Prashant Jadhav, APP, for the respondent / State.

HC Pankaj Gade, Kalepadal Police Station, Pune city.

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**Coram : R.N.Laddha, J.**

**Date : 16 July 2025.**

**P.C. :**

The applicant apprehends arrest in connection with CR No.178 of 2025, registered at Kalepadal Police Station, Pune City, for offences punishable under Sections 152, 196, 197, 352, and 353 of the Bharatiya Nyaya Sanhita, 2023, and has approached this Court seeking anticipatory bail.

2. The prosecution alleges that on 7 and 10 May 2025, the applicant deliberately shared offensive content to provoke religious hatred and threaten India's unity and sovereignty. On

7 May, she posted and later deleted a derogatory comment about the Prime Minister in a WhatsApp group. On 10 May, she shared videos on her WhatsApp status showing the Indian flag burning and the Pakistani flag waving. When confronted, the applicant defended the content, made further derogatory remarks, expressed support for Pakistan, and refused to engage respectfully.

3. Mr Wesley Menezes, the learned Counsel appearing on behalf of the applicant, submits that the applicant is innocent of the charges levelled against her. He contends that the purportedly offensive remarks attributed to the applicant are, in fact, a manifestation of her right to freedom of speech and expression, as an essential facet of democratic discourse, enshrined under Article 19(1)(a) of the Constitution of India. Mr Menezes further argues that the FIR appears to be a product of personal vendetta, having been lodged by the informant in retaliation following a verbal altercation between the parties. He submits that the applicant, a teacher by profession with an unblemished record, was compelled to resign from her position solely due to the stigma arising from this incident. The learned Counsel further submits that the applicant's mobile phone has already been seized by the investigating agency and there is nothing further to be

recovered or discovered from her in connection with the case. In conclusion, Mr Menezes asserts that the applicant has been falsely implicated in the crime, and submits that she is willing to comply with any conditions that may be imposed in the event of the grant of pre-arrest bail.

4. Mr Prashant Jadhav, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for pre-arrest bail. He contends that the applicant has deliberately disseminated provocative video content through her WhatsApp status, with the clear intention of inciting communal disharmony among individuals of various religious and caste backgrounds included in her contact list. The learned APP emphasises that the investigation is yet to be carried out regarding the source and creation of the inflammatory video, necessitating the applicant's custodial interrogation. He further submits that the offence is of a serious and sensitive nature, bearing implications on national security and public order. According to the learned APP, the investigation is at a nascent stage. Mr Jadhav also expresses apprehension that if the applicant is granted pre-arrest bail, there exists a substantial risk of her tampering with material evidence and exerting undue influence on the witnesses, jeopardising the investigation.

5. This Court has given anxious consideration to the rival contentions canvassed across the Bar and perused the records.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary and must be used with caution and discretion, based on the specific facts of each case. Unlike regular bail, it cannot be treated as a general rule. Courts must avoid a one-size-fits-all approach, as granting such pre-arrest bail in serious cases may affect the investigation. All these aspects are highlighted in the decision of the Hon'ble Supreme Court in *Srikant Upadhyay v. State of Bihar*, 2024 SCC OnLine SC 282.

7. Upon perusing the records, it appears that the applicant is accused of intentionally disseminating objectionable and inflammatory content, allegedly with the intent to provoke hostility and hatred between the religious communities. The accusations pertain to two separate incidents dated 7 May 2025 and 10 May 2025.

8. On the morning of 7 May 2025, at approximately 9:24 a.m., a message commending "Operation Sindoor" was circulated by the admin of a WhatsApp group named "Sath Sath Margosa Ladies". In response, the applicant allegedly posted a derogatory comment directed at the elected head of

the State. Although the message was promptly deleted, its offensive nature had already caused concern among the group members. Following this, on 10 May 2025, around 2:00 p.m., the informant discovered objectionable content uploaded to the applicant's WhatsApp status. The videos in question reportedly depicted a burning Indian national flag and a visual of the elected head of the State falling into water, with a prominently displayed Pakistani flag waving in the background. When questioned about these posts, the applicant is said to have not only stood by her actions but also reiterated her allegiance to Pakistan. Furthermore, she allegedly used language that was deeply offensive and derogatory in nature. These actions, as alleged, have the potential to endanger the country's sovereignty, unity, and integration by undermining the principles of national integration.

9. A cursory reading of the applicant's bail application indicates that there is no denial on her part regarding the uploading of the contentious material. Acts such as defiling the national flag carry the potential to disturb public order and societal peace. It is essential to approach such issues with utmost seriousness, as they may incite communal disharmony and threaten national security. The FIR contains specific and detailed allegations against the applicant. The material available

on record *prima facie* shows the applicant's active involvement in the commission of the offence. The investigation is at a nascent stage, and the applicant's custody is necessary to ascertain the creation and source of the aforesaid offensive and inflammatory video. Notably, the applicant is a teacher by profession, a role that inherently carries a significant level of responsibility and ethical obligations. As a teacher, the applicant is not only entrusted with imparting knowledge but also with shaping the character and values of her students, thereby holding a position of considerable influence and accountability within society. Granting pre-arrest bail to the applicant at this preliminary stage would jeopardise the course of an effective investigation.

10. Considering the gravity of the offence and the material on record, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

[R. N. Laddha, J.]