



2025:AHC:227380

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 43604 of 2025

Rihan

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Akhilesh Kumar Dwivedi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 69

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri Akhilesh Kumar Dwivedi, learned counsel for the applicant and Sri Anoop Trivedi, learned Additional Advocate General, assisted by Sri Sanjay Kumar Singh and Sri Nitesh Kumar Srivastava, learned AGA for the State.

2. The instant bail application has been filed with a prayer to release the applicant on bail in Case Crime No.489 of 2025, under Sections-109(1), 109(2), 118(2), 121(1), 189(5), 191(2), 191(3), 195(1), 196(1), 196(2), 223, 310(2), 324(5), 324(6), 61(2), 62 BNS, 7 Criminal Law Amendment Act and Section 3/4 Prevention of Damage of Public Property Act, Police Station-Kotwali, District-Bareilly, during the pendency of the trial.

3. As per the prosecution story, an FIR was lodged on 26.05.2025 with the allegation that the President of Ittefaq Minnat Council (in short 'INC'), Maulana Taukir Raza had given a call to the muslim community to assemble in the field of Islamia Inter College to make a demonstration

conclusion of namaz on 26.09.2025. Although the police requested them not to go ahead, Section 163 BNSS was also enforced in District Bareilly, prohibiting any assembly of more than five persons. Thereafter, the first informant, who was posted near the house of INC leader Nadeem Khan in Biharipur, Police Station- Kotwali, District-Bareilly, found that Nadeem Khan incited the people to assemble and proceed to Islamia Inter College, and a crowd also came out from the house of Nadeem Khan. Thereafter, he also left the place to incite the people at other places. It was found that the crowd of 500 people assembled in Biharipur and they started making slogans against the Government and also raising slogans **"gustakh-e-nabi ki ek saja sar tan se juda, sar tan se juda"** and police tried to stop them but they started snatching the canes of the policemen and also torn their uniform and on objecting by the police, they started throwing petrol bomb, firing and stone pelting which has resulted into injury to several policemen and also damage to several police and private vehicles and on the spot, 7 persons including the present applicant were arrested and based on their statements, names of several persons including the main accused, Maulana Taukir Raza and Nadeem Khan, came to surface. On the basis of the statements of these arrested persons and on the identification of other co-accused, an FIR was lodged against 25 named and 1700 unknown persons. Thereafter, police also arrested other named accused and identified unknown persons on the basis of information received from arrested persons, as well as independent witnesses and also on perusal of CCTV footage.

4. Learned counsel for the applicant has submitted that the applicant has been falsely implicated and he was arrested from his home, but the police falsely claimed his arrest from the spot. It is further submitted that the applicant has no

Sri Nitesh Kumar Srivastava, learned AGA, have vehemently opposed the prayer and submitted that the act of the applicant and other co-accused is not only promoting enmity between the religious communities but also against the State as well as against the unity and integrity of India. It is further submitted by the learned Additional Advocate General that the slogans used by the crowd "gustakh-e-nabi ki ek saja sar tan se juda, sar tan se juda" itself shows that the persons involved in the crowd do not have any respect for the Indian legal system, as disrespect to any God or Nabi of any religion is punishable in BNS by providing appropriate punishment, and there is no such punishment for beheading a person who disrespects the God or Nabi of any religion. Therefore, such an act is punishable not only u/s 152 of BNS but also under other sections of BNS, as the persons involved, including the applicant, challenged the sovereignty and integrity of India by their act of raising the above-mentioned slogans and destroyed public and private properties.

6. Considering the aforesaid submission and on perusal of record, it is not in dispute that at the instigation of INC President, Maulana Taukir Raza as well as another leader, Nadeem Khan, a crowd of more than 500 people assembled in Biharipur area of Police Station- Kotwali and made slogans against the State as well as the disputed/objectionable slogan **"gustakh-e-nabi ki ek saja, sar tan se juda, sar tan se juda"** and on being prevented by the police, they starting pelting stones, firing, damaging police and private vehicles and applicant as well as other six persons were also arrested from the spot. However, before analysing the aforesaid fact, it would be appropriate to mention that the offence of blasphemy or disrespecting any religion or God is punishable u/s 299 and 196 BNS. Section 302 of BNS further provides that if any person

"298. Injuring or defiling place of worship with intent to insult religion of any class.—Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

299. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.—Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or through electronic means or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

302. Uttering words, etc., with deliberate intent to wound religious feelings of any person.—Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

7. Apart from this, if any group of persons either by spoken or written or by sign or visible representation or through electronic communication promote or attempt to promote enmity between the different groups on the ground of religion then, that is punishable u/s 196 BNS with the imprisonment up to 3 years and if same has been committed in place of any worship then same would be punishable up to 5 years. Section 196 of BNS is being quoted as under:

birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity; or

(c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

8. From the perusal of the above section, it is clear that BNS has taken care of all such situations where any person disrespects any religion or its God, Prophet, Guru or attempts to promote enmity between the religious groups by chanting any slogan or visible representation, then appropriate punishment has also been provided. Therefore, chanting the slogan "**gustakh-e-nabi ki ek saja sar tan se juda, sar tan se juda**" which provides punishment of

Indian citizens irrespective of their caste, creed or religion. Therefore, if a person, instead of respecting the law framed under the Indian constitution, attempts to challenge the law or promotes or incites people to commit an offence in the garb of providing punishment, though the same is not provided in the criminal law then that should be dealt with strictly. The Constitution of India permits the right to assemble and freedom of speech and expression under Article 19 of the Constitution of India, but it has certain limitations as per Article 19(2) of the Constitution of India. Therefore, any slogan by a crowd that provides a death sentence contrary to the appropriate punishment provided by the BNS or other criminal law is not only against the constitutional object but also a challenge to the lawful authority of the Indian legal system and also punishable under Section 152 BNS.

9. Generally, slogans or proclamations are used in every religion, but these slogans are for the purpose of showing their respect to the concerned God or Guru, like in Muslim "*nara-e-takbir*" followed by "*Allahu Akbar*" which means God is the greatest and there is no dispute or objection about it. Similarly, in the Sikh religion, the slogan (proclamation) "*Jo bole so nihaal, Sat Sri Akal*" is also an acknowledgement of God as the ultimate, timeless reality and this call was popularised by Guru Gobind Singh Ji. Similarly, chanting the slogans (Devotional call) in a cheerful and joyful moments by Hindus like "*Jai Shree Ram*" or "*Har Har Mahadev*". Therefore, raising or chanting these slogans (Devotional calls or proclamations) by any person or a crowd is not an offence unless they are maliciously used to intimidate persons belonging to other religions. Though the slogan "*gustakh-e-nabi ki ek saja sar tan se juda, sar tan se juda*" does not have any trace in the Quran or any other religious text belonging to Muslims,

issues; therefore, in 1927, the blasphemy law was enacted by the English Government, covering the hurting of religious feelings as a crime. Thereafter, on the division of India and Pakistan in 1947, the Pakistan Government enacted the blasphemy law. As per this law, any person who disrespects the religion or the Quran would be liable to punishment, and this blasphemy law in Pakistan was further amended by the Pakistani Army Commander, Mohammad Zia-ul-Haq, in 1982 by adding section 295-B wherein it is mentioned that in case any person says anything disrespecting to Quran then a person would be liable to life imprisonment or death. In 1986, the Pakistani blasphemy law was again amended, and Section 295(c) was added, which provides that disrespect to "*Huzur Sallallahu alayhi wasallam*" shall also be punishable with the life imprisonment or death. Thereafter, the Sariate Court in Pakistan further made this law more strict and directed that disrespect to other Nabis (nabiyyin), apart from "*Sallallahu alayhi wasallam*", will also be punishable with the punishment of only death. Thereafter, in the year 2011, a Christian woman, Asia Bibi, was convicted under the blasphemy law in Pakistan. The Governor of Punjab, Salman Taseer, educated in London, supported the women Asia Bibi, and this created huge unrest in the Pakistan and the crowd assembled on roads making demonstration under the leadership of Mulla Khadim Hussain Rizvi, who for the first time used the slogan "*gustakh-e-nabi ki ek saja, sar tan se juda, sar tan se juda*" and thereafter this slogan also spread to other countries including India and has been widely misused by certain muslims just to intimidate the people of other religions and also to challenge the authority of the State. Therefore, it is clear that the slogan "*gustakh-e-nabi ki ek saja, sar tan se juda, sar tan se juda*" used by the crowd in India is nothing but used to challenge the authority of law and sovereignty of India and also to incite

Prophet Mohammad travelled to city of Taif, a non-Muslim woman neighbour, who frequently harmed the prophet by throwing garbage in his path but prophet never retaliated or complaint. When the neighbour fell ill, the prophet went to visit her out of kindness, which ultimately lead the neighbour to embrace the Islam. The above act on the part of prophet Mohammad demonstrated his unwavering principle of repelling evil with good, his deep passion, and his focus on long term guidance over immediate retribution. Therefore, if any follower of Islam raises a slogan for beheading any person, who disrespects the Nabi, that is nothing but disrespect to the ideals of prophet Mohammad. As love, kindness and compassion attract others but showing expression of violence through words creates enmity or annoyance towards the religion of the person who promotes violence.

12. In view of above analysis, it is clear that the slogan raised by an individual person or by a crowd that "*gustakh-e-nabi ki ek saja, sar tan se juda, sar tan se juda*" is a challenge to the authority of law as well as sovereignty and integrity of India as the same incites the people for arm rebellion, therefore, this act not only will be punishable under Section 152 BNS but also against the basic tenets of Islam.

13. Coming to the fact of the present case, it is not in dispute that such a disputed or objectionable slogan "*gustakh-e-nabi ki ek saja, sar tan se juda, sar tan se juda*" was used by the crowd of thousands of people assembled at the instigation of Maulana Taukir Raza and when police stopped the crowd and informed that in view of the enforcement of order under Section 163 BNSS, they cannot assemble and their assembly is unlawfull and also

14. There is sufficient material in the case diary showing that the applicant was part of an unlawful assembly which not only raised objectionable slogans challenging the authority of the Indian legal system but also caused injuries to police personnel and damaged public as well as private property, which is nothing but an offence against the State and he was arrested from the spot. Therefore, this court does not find any ground to release the applicant on bail.

15. Accordingly, the bail application of the applicant is **rejected**.

December 17, 2025
S.C.

(Arun Kumar Singh Deshwal,J.)