

Through:- Mr. Viqas Ahmad Malik Advocate.

----(Applicant)



V/s
UT of J&K through
SHO P/S Safa Kadal, Srinagar.

Through APP Mr. Mohsin Khan.

----(Non-applicants)

**Case FIR No. 107/2022 of P/S Safa Kadal, Srinagar
Under Sections 505 (2) & 506 IPC.**

<u>Case No.:-</u>	313/2022
<u>CNR Number of the case:-</u>	JKSG03-030534-2022
<u>Date of institution of case:-</u>	14-06-2022
<u>Date of Order of case:-</u>	18-06-2022
<u>Coram:-</u>	Ajay Kumar, KCS(Judicial).
<u>JO Code of the Presiding Officer:-</u>	JK00198.

In the matter of:- Bail Application

ORDER

1. The applicants/accused person above named seeks his enlargement on bail in Case FIR mentioned herein above on the grounds, inter alia, that:-
 - (a) The applicant has been arrested by the non-applicants for allegedly uploaded a VFX on Youtube which was deleted immediately by the applicant.
 - (b) The applicant thereafter on 11th June 2022 at around 6:30 am released another video wherein the applicant apologized for the video content in question.
 - (c) The applicant is required to take care of his family which includes his old aged mother and also applicant is undergoing medication for depression and needs regular medical advice and attention.
 - (d) The applicant has not committed any offence and has never been accused of having committed any offence.
 - (e) Investigation of the case has already taken the accused in police custody and therefore further custody would be futile and therefore there is no valid justification to keep the accused behind the bars.
 - (f) The applicant is ready to abide all rules and regulations imposed by this Hon'ble Court upon him and will not hamper or tamper

with the prosecution witnesses and also will ready to give sound surety.

2. Police report from the concerned police station has been obtained. As per the police report, on 11-06-2022, it was reliably learnt by the police that one person Faisal Fayaz Wani, S/o Fayaz Ahmad Wani, R/o Haftyarbal Safakadal has uploaded on incriminating / intimidating video on social medial networking site Youtube containing content which is against public tranquility and has caused fear and alarm to public in general. The video besides causing panic and alarm in general public has strong tendency for glorifying violence particularly among children. On this case FIR No. 107/2022 under section 505(2), 506 IPC was registered and investigation was taken up.
3. Prosecution stated in the objections that the accused person is involved in spreading and making viral video having tendency to create breach of peace across the country among different classes / communities. This content, gesture, disseminated by the accused on the social media at this fragile and charged atmosphere is highly objectionable, besides being an act to promote enmity on the basis of religion. The offence is non-bailable and heinous in nature as such the accused cannot claim bail as a matter of right. The investigation in the case in hand is at its initial stage, all the angles of the commission of offence are yet to be identified and investigation upon and if bail is granted at this stage, it would impeded to whole investigation. It has been laid down by the Hon'ble Supreme Court of the country in a catena of authorities that while dealing with the applications for bail in non-bailable offences, Hon'ble Courts shall take into consideration gravity of offence, Severity of Punishment which it carries, impact of such offences on larger public interest, possibility of tampering of evidence by accused and other like factors. It is further submitted that the above named accused is involved in the commission of serious, grave offences which carries severe punishment and the material and evidence collected during the investigation is prima facie suggestive of the involvement of accused in the commission of offences as such the above referred application for bail deserve to be rejected. The C.D. file of the case may be called for appreciation of the factual situation of the case and quality of the evidence gathered during investigation. It is therefore most humbly prayed that this Hon'ble Court may be pleased to reject the above titled bail application of the accused/ as same shall be in the interests of justice.

4. I have heard the Ld. Counsel for the applicant and Ld. APP. The accused has been in police custody for last 07 days. The offences in question are not very severely punished under law. Thus, there is no reasonable possibility of the accused fleeing the course of justice. The accused does not any criminal antecedents. The nature of the evidence in the case is such that accused will same. No useful purpose would be served by the

· further detention of the accused person in any sort of custody. The refusal of bail in such case would be unjust. Bail is the rule and jail is an exception. Therefore, the application is allowed and the SHO P/S Safakadal Srinagar is directed to release the accused person on bail provided he furnishes a personal bond in the sum of 20,000/- before SHO PS concerned with one surety in the like amount before this Court. The bail is subject to the following conditions:

1. That he is not required in any other case,
2. That the said accused person will co-operate in the investigation of the case.
3. That the said accused person 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 or her from disclosing such facts to the Court, or any Police Officer.

Surety bond as directed has been furnished by the applicant before this Court.

Announced

18-06-2022.

Copy of order forwarded to SHO P/S Safakadal
for compliance -

sd/-
City Judge / JMIC,
Srinagar.

Ajaya
City Judge
Judicial Magistrate 1st Class
Srinagar