

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7241 of 2023

Applicant :- Inamul Haq Alias Inamul Imtiyaz

Opposite Party :- State of U.P.

Counsel for Applicant :- Shivam Yadav, Aditya Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicant as well as learned A.G.A. and perused the record.

2. The FIR in question was lodged alleging that on the basis of recovery of certain materials, it was revealed that the applicant was engaged in forming a whatsapp group which used to spread literature which could be termed as jihadi literature. It is alleged that the applicant was the administrator of the group and used to upload jihadi videos. It is also recorded in the FIR that the applicant had admitted that he wants to become a jihadi. It was also allegedly admitted by him that he was associated with lashkar group and for the last 15-16 years was running a whatsapp group. It is also alleged that in the group which was allegedly operated by the applicant, 181 members were there, which include 170 members of Pakistan, three members of Afghanistan and one member of Malaysia and Bangladesh each and six members were from India. Allegations are also there that a similar group was being run by the applicant and people were being enticed to join the said group.

3. On the basis of the said allegation and the recovery, the applicant was charged for an offence under Section 121-A and 153-A of the IPC read with 66 I.T. Act.

4. Sri Shivam Yadav, who appears for the applicant argues that as per the allegations as contained in the FIR, *prima facie*, no offence to implicate the applicant under Section 121-A IPC can be said to be made out. He further argues that the applicant is in custody since 14.03.2022 and the offence alleged against the applicant are punishable for a term of five years or less except Section 121-A IPC, which according to him is not made out.

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5. Learned A.G.A. vehemently opposed the bail prayer by arguing that the applicant is spreading hatred and is promoting anti India feelings and the whatsapp group which is alleged to being run by the applicant is also engaged in providing and facilitating the acquisition of weapons, thus, the offence is clearly made out.

6. Considering the submissions made by counsel for the applicant, aging of war is an offence under Section 121 of the IPC punishable with death or imprisonment of life and also for fine, however, Section 121-A IPC prescribes for punishment for a conspiracy to commit offence punishable under Section 121 IPC. Section 121-A IPC is quoted as under:

[121A. Conspiracy to commit offences punishable by section 121.--Whoever within or without [India] conspires to commit any of the offences punishable by section 121, or conspires to overawe, by means of criminal force or the show of criminal force, [the Central Government or any [State] Government], shall be punished with [imprisonment for life], or with imprisonment of either description which may extend to ten years, [and shall also be liable to fine].

7. The conspiracy to overawe by means of a criminal force or show off criminal force may be punishable with a term which may be extended up to 10 years. In the present case, from the allegations levelled against the applicant and the FIR that the applicant was administrator of two whatsapp group comprising mainly foreign citizens and the said group was allegedly promoting the acquisition of arms and promoting the group on the basis of religious prejudices. Although, the right to practise and propagate religion is guaranteed under Article 19, however, from the nature of allegations levelled in the FIR, the second part of Section 121-A IPC cannot be said to be not made out. Considering the gravity of the allegation, no case for grant of bail is made out, as such, the bail application is liable to be rejected.

8. Accordingly, the bail application is **rejected**.

Order Date :- 9.8.2023

S.A.