

A.F.R.

Neutral Citation No. - 2023:AHC:240343

Reserved on: 30.11.2023

Delivered on: 19.12.2023

Court No. - 69

**Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 9241 of 2023**

Applicant :- Umar Ansari

Opposite Party :- State of U.P.

Counsel for Applicant :- Upendra Upadhyay, G.S. Chaturvedi, Sr. Adv.

Counsel for Opposite Party :- P.C. Srivastava AAG, Vikas Sahai A.G.A.

Hon'ble Samit Gopal, J.

1. Heard Sri Gopal S. Chaturvedi, learned Senior Advocate assisted by Sri Upendra Upadhyay, learned counsel for the applicant, Sri P. C. Srivastava, learned Additional Advocate General with Sri Vikas Sahai, learned Additional Government Advocate appearing for the State of U.P. and perused the records.

2. This is the second anticipatory bail application under Section 438 of the Criminal Procedure Code, 1973 (hereinafter referred as "Cr.P.C.") filed by the applicant- **Umar Ansari** with the following prayers:-

*"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the present second anticipatory bail application release the Applicant on anticipatory bail in Case Crime No. 97 of 2022, under Sections 506, 171-F, 186, 189, 153-A, 120-B I.P.C., Police Station- Kotwali Nagar, District Mau during pendency of the Trial before the learned Trial Court otherwise the applicant shall suffer irreparable loss and injury.
And or to pass such other and further order as this Hon'ble Court may deem fit and proper in the circumstances of the case."*

3. The applicant- Umar Ansari had previously filed a **Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. - 9596 of 2022 (Umar Ansari vs. State of U.P.)** in the present case with the following prayers:-

*"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the present second anticipatory bail application release the Applicant on anticipatory bail in Case Crime No. 97 of 2022, under Sections 506, 171-F, 186, 189, 153-A, 120-B I.P.C., Police Station- Kotwali Nagar, District Mau during pendency of the Trial before the learned Trial Court otherwise the applicant shall suffer irreparable loss and injury.
And or to pass such other and further order as this Hon'ble Court may deem fit and proper in the circumstances of the case."*

4. The first anticipatory bail application was dismissed as not pressed by this Court vide order dated 17.10.2022. The same reads as under:-

"Heard Sri Upendra Upadhyay, learned counsel for the applicant and Sri Shashi Kant Pandey, learned counsel for the State.

The present anticipatory bail application under Section 438 Cr.P.C. has been filed by the applicant-Umar Ansari, seeking anticipatory bail, in the event of arrest in Case Crime No. 97 of 2022, u/s 506, 171-F, 186, 189, 153-A, 120-B IPC, P.S. Kotwali Nagar, District Mau.

At the very outset, learned counsel for the applicant states that the present application under Section 438 Cr.P.C. be dismissed as not pressed as he intends to file better petition annexing some more documents and disclosing subsequent development.

Prayer is allowed.

The present anticipatory bail application is dismissed as not pressed with the aforesaid liberty."

5. This matter was heard on 03.11.2023 and the following order was passed by this Court:-

"1. List revised.

2. Heard Sri Gopal S. Chaturvedi, learned Senior Advocate, assisted by Sri Upendra Upadhyay, learned counsel for the applicant, Sri P. C. Srivastava, learned Additional Advocate General assisted by Sri Vikas Sahai, learned Additional Government Advocate appearing for the State of U.P. and perused the record.

3. This is the second anticipatory bail application under Section 438 Cr.P.C. filed by the applicant Umar Ansari, seeking anticipatory bail, in the event of arrest in Case Crime No. 97 of 2020, under Sections 506, 171-F, 186, 189, 153-A, 120-B I.P.C., Police Station- Kotwali Nagar, District Mau during pendency of the trial.

4. The first anticipatory bail application of the applicant being Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 9596 of 2022 was rejected by this Court vide order dated 17.10.2022 which reads as under:-

"Heard Sri Upendra Upadhyay, learned counsel for the applicant and Sri Shashi Kant Pandey, learned counsel for the State.

The present anticipatory bail application under Section 438 Cr.P.C. has been filed by the applicant-Umar Ansari, seeking anticipatory bail, in the event of arrest in Case Crime No. 97 of 2022, u/s 506, 171-F, 186, 189, 153-A, 120-B IPC, P.S. Kotwali Nagar, District Mau.

At the very outset, learned counsel for the applicant states that the present application under Section 438 Cr.P.C. be dismissed as not pressed as he intends to file better petition annexing some more documents and disclosing subsequent development.

Prayer is allowed.

The present anticipatory bail application is dismissed as not pressed with the aforesaid liberty."

5. Learned counsel for the applicant argued that the First Information Report of the matter was lodged on 04.3.2022 by Sub Inspector, Police Station Kotwali Nagar, District Mau alleging therein that on 3.3.2022 at about 20:30 hours while being on routine checking duty with other police personnels he reached Pahadpura ground he saw persons of Bhartiya Suhail Dev Samaj Party along with candidate Abbas Ansari with whom the applicant Umar Ansari and the organizer Mansoor Ahmad Ansari and around 150 unknown people were collected in which there was speech going on that after elections accounts will be settled with the Mau administration. The same was breach of Code of Conduct which was punishable under Section 177-Cha, 506 I.P.C. It is argued that subsequently during investigation Sub Inspector Sushil Kumar Dubey was interrogated who stated that there was such language being used by the accused persons due to which there were chances of unrest being spread between the communities. It is argued that subsequently Sections 186/189 and 153A/120B I.P.C. were added in the present matter. It is argued that in so far as the applicant is concerned, there is nothing on record to show that he gave any such speech which was prejudicial to the law and order. Learned counsel has placed para nos. 8 to 12 of the affidavit in support of anticipatory bail application, disclosing and explaining the criminal history of the applicant. It is argued that charge sheet in the matter has been submitted against the applicant and other accused persons on which cognizance has been taken but no offence whatsoever is made out against the applicant. It is argued that the applicant be protected by granting anticipatory bail application in the matter.

6. Per contra, learned Additional Advocate General opposed the prayer for anticipatory bail and while placing facts of the matter argued that first anticipatory bail application of the applicant was rejected by this Court as not pressed on the ground of documents being insufficient. Subsequently the applicant filed an anticipatory bail application before the concerned trial court which was rejected and then the present anticipatory bail application has been filed before this Court. It is argued that in between the applicant preferred a Criminal Misc. Application U/S 482 Cr.P.C. No. 25838 of 2022 challenging the charge sheet, cognizance order and summoning order in which initially there was an interim order but subsequently the said petition stood dismissed after which the same was challenged before the Apex Court which also stood dismissed with liberty to the applicant to raise his grievances at the state of discharge at the appropriate stage. It is argued that as of now the proceedings under Section 82/83 Cr.P.C. have been initiated against the applicant. He prays for 10 days' time to file a detailed counter affidavit in the matter.

7. Let a counter affidavit be filed within 10 days by the State. Learned counsel for the applicant will have 10 days' thereafter to file rejoinder affidavit, if any.

8. Let the matter be listed on 30.11.2023 for final disposal.

9. In the event of arrest of the applicant Umar Ansari, in Case Crime No. 97 of 2020, under Sections 506, 171-F, 186, 189, 153-A, 120-B I.P.C., Police Station- Kotwali Nagar, District Mau he shall be released on interim anticipatory bail, till the next date of listing, on his furnishing a personal bond of Rs. 50,000/- with two sureties (out of which one surety should be the family member of the applicant and the other should be a local person) each in the

like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicant shall make himself available on each and every date fixed in the matter by the court concerned.

(ii) the applicant 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 from disclosing such facts to the Court.

(iii) the applicant shall not leave India without the previous permission of the Court and if he has passport the same shall be deposited by him before the concerned court.

10. In case, the applicant does not co-operate in the proceedings of the trial, this order shall stand automatically recalled/vacated and the applicant shall be taken into custody, forthwith.

11. Further, in default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

12. The court concerned shall not be prejudiced by any observation made by this Court while considering and deciding the present anticipatory bail application of the applicant.”

6. Subsequently since there was typographical error in the said order, a correction application was moved which was allowed vide order dated 16.11.2023. The said order reads as under:-

"Order on Crl. Misc. (Correction) Application No.2 of 2023.

1. List revised.

2. Heard Sri Upendra Upadhyay, learned counsel for the applicant and Sri Ajay Singh, learned AGA-I for the State.

3. This is a correction application for correction of the order dated 3.11.2023 passed by this Court.

4. Following necessary corrections be made in the order dated 3.11.2023:-

5. Let the year of case crime "2020" which appears in the 4th line of 3rd paragraph and also in the 2nd line of 9th paragraph of the order dated 3.11.2023 be deleted, so as to be replaced by "2022".

6. Accordingly, the present correction application stands allowed."

7. The matter was then finally heard on 30.11.2023 and the following order was passed by this Court:-

"1. Heard Sri Gopal S. Chaturvedi, learned Senior Advocate, assisted by Sri Upendra Upadhyay, learned counsel for the applicant, Sri P. C. Srivastava, learned Additional Advocate General assisted by Sri Vikas Sahai, learned Additional Government Advocate appearing for the State of U.P. and perused the record.

2. This is the second anticipatory bail application under Section 438 Cr.P.C. filed by the applicant Umar Ansari, seeking anticipatory bail, in the event of arrest in Case Crime No. 97 of 2020, under Sections 506, 171-F, 186, 189, 153-A, 120-B I.P.C., Police Station- Kotwali Nagar, District Mau during pendency of the trial.

3. Pleadings in the matter have been exchanged which are on record.

4. Arguments concluded.

5. Judgment reserved.

6. Since the applicant has been granted interim anticipatory bail till the next date of listing vide order dated 3.11.2023, he is directed to be released on interim anticipatory bail till delivery of judgment on his furnishing personal bond Rs. 50,000/- with two sureties (out of which one surety should be the family member of the applicant and the other should be a local person) each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicant shall make himself available on each and every date fixed in the matter by the court concerned.

(ii) the applicant 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 from disclosing such facts to the Court.

(iii) the applicant shall not leave India without the previous permission of the Court and if he has passport the same shall be deposited by him before the concerned court.

7. In case, the applicant does not co-operate in the proceedings of the trial, this order shall stand automatically recalled/vacated and the applicant shall be taken into custody, forthwith.

8. Further, in default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

9. The court concerned shall not be prejudiced by any observation made by this Court while considering and deciding the present anticipatory bail application of the applicant."

8. Pleadings being a counter affidavit dated 21.11.2023 of the State of U.P./sole respondent and a rejoinder affidavit dated 27.11.2023 to the same by the applicant have been filed which are already on record.

9. The facts of the case are that a first information report was lodged on 04.03.2022 by Ganga Ram, Sub-Inspector, Police Station Kotwali Mau, District Mau against Abbas Ansari the candidate of 356 Vidhan Sabha constituency Mau Sadar of Suheldev Bhartiya Samaj Party, Umar Abbas Ansari (the present applicant) and 150 unknown people with the allegation that on 03.03.2022 at about 20.30 hours he along with other police constables was on routine duty of maintaining law & order and

inspection on which they reached Pahadpura ground and saw Abbas Ansari (the candidate), Umar Abbas Ansari, the organizer Mansoor Ahmad Ansari and around 150 unknown people collected together exhorting the District Mau Administration from the stage of settling their accounts after election and setting them right which was breach of code of conduct and punishable u/s 171-F and 506 I.P.C. The first information report was thus lodged as Case Crime No. 97 of 2022, under Sections 506, 171-F I.P.C., Police Station- Kotwali Nagar, District Mau.

10. The matter was investigated after which a charge-sheet dated 11.05.2022 was submitted against Abbas Ansari and Umar Abbas Ansari, under Sections 506, 171-F, 186, 189, 153-A, 120-B I.P.C. In so far as the other accused being Mansoor Ahmad Ansari and 150 unknown persons were concerned it was mentioned therein that the investigation is going on with regards to them. On the said charge-sheet the Court of the Additional Chief Judicial Magistrate (S.D.), Mau vide order dated 23.05.2022 took cognizance upon it and the accused persons were summoned to face trial.

11. A challenge to the said charge-sheet dated 11.05.2022 and the order of cognizance and summoning dated 23.05.2022 was done by both the accused persons before this Court in a **Criminal Misc. Application U/S 482 No. - 25838 of 2022 (Abbas Ansari and another vs. State of U.P. and 2 others)** which was dismissed vide order dated 01.02.2023 passed by a co-ordinate Bench of this Court. The said order reads as under:-

"1. Heard Sri Anil Tiwari, learned Senior Advocate, assisted Sri Upendra Upadhyay, learned counsel for the petitioners and Sri M.C. Chaturvedi, learned Additional Advocate General assisted Sri Ratnendu Kumar Singh, learned AGA for the State.

2. The present petition under Section 482 Cr.P.C. has been filed seeking quashing of the charge sheet dated 11.5.2022 under Sections 171-F, 506, 186, 189 and 153-A and 120-B IPC in pursuance to the FIR dated 3.3.2022 registered at Crime No.97 of 2002, initially registered under Sections 506 and 171-F IPC at Police Station Kotwali Mau, District Mau. Further prayer has been made for quashing of the order of cognizance and summoning dated 23.5.2022 passed by the Special Judge (MP/MLA Court)/Additional Chief Judicial Magistrate, Mau in Criminal Case No.9720 of 2022.

3. The FIR in question came to be registered after petitioner no.1 made a statement in a public meeting during his election campaign for Member of Legislative Assembly from Mau Sadar Constituency. Petitioner No.1 was contesting the said elicitation on the ticket of Suheldev Bhartiya Samaj Party in March, 2022. The offending part of the statement made by petitioner no.1 would read "समाजवादी पार्टी के राष्ट्रीय अध्यक्ष श्री अखिलेश यादव जी से यह कहकर आया हूँ कि 6 महीने तक किसी का ट्रान्सफर पोस्टिंग नहीं होगी। भइया जो यहां है वो

यहां ही रहेगा पहले हिसाब किताब होगा उसके बाद उसके जाने के सर्टीफिकेट पर मुहर लगाया जायेगा।"

4. *The main contention of the learned counsel for the petitioners is that the said statement by no stretch of imagination would constitute an offence under Section 153-A IPC. It has been further submitted that to constitute an offence under Section 153-A IPC, there must be an intention of the person making the statement to create disorder or to incite people to violence. Even if it is believed that petitioner no.1 had made the said statement, the statement was directed towards the Government people and not against any member, religion, racial, language or regional groups or castes or communities. It is further submitted that if the provisions of Section 153-A IPC are considered in proper perspective, the said offence would not get attracted against the petitioners for making the offending statement and, therefore, taking cognizance for an offence under Section 153-A IPC against the petitioners is wholly illegal and to that extent at least the cognizance order is bad in law and is liable to be set aside.*

5. *In support of his said contention, learned counsel for the petitioners has placed reliance on the following judgments:-*

1. *Balwant Singh and another Vs. State of Punjab; (1995) 3 SCC 214;*
2. *Bilal Ahmed Kaloo Vs. State of A.P.; (1997) 7 SCC 431;*
3. *Manzar Sayeed Khan Vs. State of Maharashtra and another; (2007) 5 SCC 1;*
4. *Amish Devgan Vs. Union of India and others; (2021) 1 SCC 1; and*
5. *Shreya Singhal Vs. Union of India; (2015) 5 SCC 1."*

6. *On the other hand, Sri M.C. Chaturvedi, learned Additional Advocate General has submitted that the investigating officer has prepared a report, which was sent to the Government for sanction of the prosecution against petitioner No.1 on 3.5.2022. Thereafter, the charge sheet has been submitted against both the petitioners on 11.5.2022. The Government had sanctioned the prosecution against both the petitioners on 24.8.2022 and the said sanction order has been incorporated in the case diary of Parcha No.CD-11 and forwarded the same on 02.09.2022.*

7. *It has been further submitted that petitioner no.1 is having seven similar cases, including the present one, and petitioner no.2 is having to his credit five criminal case, including the present one. After making the offending statement by petitioner no.1, the Returning Officer of 356 Mau Assembly Constituency sent a notice dated 4.3.2022 to petitioner no.1 calling upon him to furnish his reply as to why action should not be taken against him under the relevant provisions of Representation of Peoples Act, 1951. However, petitioner no.1 did not give any reply to the said notice issued by the Returning Officer. The Election Commission of India had barred petitioner no.1 from holding any public meeting, public procession, public rallies, road shows and interviews, public utterances in media (electronic, print, social media) etc. in connection with the ongoing election for 24 hours from 7 PM from 4.3.2022.*

8. *Learned Additional Advocate General has further submitted that the offending statement made by petitioner no.1 was not only directed against the*

Government machinery, but it was also directed against the law abiding and peace-loving citizens/communities, who were feeling protected under the then government in the State from the atrocities and crimes of petitioner no.1 and his family and other co-accused. He has also submitted that the State Government had given free hand to the State machinery to handle law and order without being influenced from any political pressure. The Government officials had acted as per law without being coming under pressure from any quarter and, therefore, the residents of the said constituency, who were not supporters of the petitioners, were threatened and made insecure by giving threats to the government officials. Not only the Government officials but all those who were feeling safe and secure, felt tremors and fear in their spines by the open threat given by the petitioners. He has, therefore, submitted that the offence under Section 153-A IPC is clearly attracted in the facts and circumstances of the case.

9. Learned Additional Advocate General has also submitted that the gesture, language and the context are relevant to see whether the offence under Section 153-A IPC is attracted or not. If one looks at the video recording of the statement given by petitioner no.1 in public meeting, the warning was not against the Government officials, but it was against all those who were feeling protected and saved under the then State government. Petitioner no.1 was sure that the Government of Samajwadi Party lead by Sri Akhilesh Yadav would occupy the seat of power in the State of Uttar Pradesh and, therefore, he made the threatening statement, which has propensity to disturb the public order. He, therefore, submits that the offence under Section 153-A IPC is clearly attracted against the petitioners and no interfere is required by this Court to quash the proceedings, and the petition being devoid of merit and substance, is liable to be dismissed.

10. I have considered the submissions advanced by the learned counsel for the parties and perused the record.

11. For the sake of argument, Section 153-A IPC reads as under:-

"153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.--(1) Whoever--

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of 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,

(c) organizes 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) Offence committed in place of worship, etc.--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."

12. The offence under Section 153-A IPC may get attracted where a person by words, either spoken, or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of 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 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. If the statement or the sign or representation has propensity to incite people to violence, the offence under Section 153-A IPC gets attracted.

13. The Supreme Court in the case of Balwant Singh (Supra) has held that the intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove the existence of mens rea in order to succeed. Paragraph 9 of the said judgment would be apt to extract, which reads as under:-

"9. Insofar as the offence under Section 153-A IPC is concerned, it provides for punishment for promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever or brings about disharmony or feeling of hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities. In our opinion only where the written or spoken words have the tendency or intention of creating public disorder or disturbance of law and order or affect public tranquillity, that the law needs to step in to prevent such an activity. The facts and circumstances of this case unmistakably show that there was no disturbance or semblance of disturbance of law and order or of public order or peace and tranquillity in the area from where the appellants were apprehended while raising slogans on account of the activities of the appellants. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove the existence of mens rea in order to succeed. In this case, the prosecution has not been able to establish any mens rea on the part of the appellants, as envisaged by the provisions of Section 153-A IPC, by their raising casually the three slogans a couple of times. The offence under Section 153-A IPC is, therefore, not made out."

14. Thus, the question of proving mens rea to incite people to violence or cause disorder is to be proved during trial by leading evidence by the prosecution. However, if prima facie, the act, sign or words has propensity to disturb the public order or incite the people to violence, the proceedings cannot be quashed at the threshold.

15. The Supreme Court in the case of Bilal Ahmed Kaloo (supra) by placing reliance on the judgement of Balwant Singh (supra) has again reiterated that mens rea is an equally necessary postulate for the offence under Section 153-A IPC and same can be discerned from the words "with intent to create to promote or which is likely to create or promote". Paragraphs 10 and 11 of the said judgement which would be relevant, would read as under:-

"10. Section 153-A was amended by the Criminal and Election Laws (Amendment) Act, 1969 (Act No. 35 of 1969). It consists of three clauses of which clauses (a) and (b) alone are material now. By the same Amending Act sub-section (2) was added to Section 505 of the Penal Code, 1860. Clauses (a) and (b) of Section 153-A and Section 505(2) are extracted below:

"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.--(1) Whoever--

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of 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) ***

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

505. (2) Statements creating or promoting enmity, hatred or ill will between classes.--Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

The common ingredient in both the offences is promoting feeling of enmity, hatred or ill will between different religious or racial or linguistic or regional groups or castes or communities. Section 153-A covers a case where a person by "words, either spoken or written, or by signs or by visible representations" promotes or attempts to promote such feeling. Under Section 505(2), promotion

of such feelings should have been done by making and publishing or circulating any statement or report containing rumour or alarming news.

11. This Court has held in Balwant Singh v. State of Punjab [(1995) 3 SCC 214 : 1995 SCC (Cri) 432] that mens rea is a necessary ingredient for the offence under Section 153-A. Mens rea is an equally necessary postulate for the offence under Section 505(2) also as could be discerned from the words "with intent to create or promote or which is likely to create or promote" as used in that sub-section."

16. In the case of Manzar Sayeed Khan (supra), it has been held that the intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused. The question of proof would arise only at the time of trial and the same can be proved by leading the necessary evidence. Paragraph 16 of the said judgement which would be relevant, would read as under:-

"16. Section 153-A IPC, as extracted hereinabove, covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquillity. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused. The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. The matter complained of within the ambit of Section 153-A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning."

17. Preamble to the Constitution consciously puts together fraternity assuring dignity of the individual and the unity and integrity of the Nation which are linked; one in the form of rights of individuals; and other in the form of individual's obligation to others to ensure unity and integrity of the Nation. The unity and integrity of the Nation cannot be overlooked and slighted, as acts that promote or are likely to promote divisiveness, alienation and schematism do directly and indirectly impinge on diversity and pluralism. When such acts are done with the objective and intent to cause public disorder or to demean dignity of the targeted groups, they have to be dealt with as per law and such an act would attract the offence under Section 153-A IPC.

18. In the case of Amish Devgan (supra) while explaining the context of Section 153-A IPC regarding public tranquillity, the Supreme Court in paragraph 98 of the said judgement held as under:-

"98. In the context of Section 153-A(1)(b) we would hold that public tranquillity, given the nature of the consequence in the form of punishment of imprisonment of up to three years, must be read in a restricted sense

synonymous with public order and safety and not normal law and order issues that do not endanger the public interest at large. It cannot be given the widest meaning so as to fall foul of the requirement of reasonableness which is a constitutional mandate. Clause (b) of Section 153-A(1), therefore, has to be read accordingly to satisfy the constitutional mandate. We would interpret the words "public tranquillity" in clause (b) to mean ordre publique a French term that means absence of insurrection, riot, turbulence or crimes of violence and would also include all acts which will endanger the security of the State, but not acts which disturb only serenity, and are covered by the third and widest circle of law and order. Public order also includes acts of local significance embracing a variety of conduct destroying or menacing public order. Public order in clause (2) of Article 19 nor the statutory provisions make any distinction between the majority and minority groups with reference to the population of the particular area though as we have noted above this may be of some relevance. When we accept the principle of local significance, as a sequitur we must also accept that majority and minority groups could have, in a given case, reference to a local area."

19. Further, in paragraphs 104 to 106 of the aforesaid judgement, the Supreme Court held as under:-

"104. The word "attempt", though used in Sections 153-A and 295-A of the Penal Code, has not been defined. However, there are judicial interpretations that an "attempt to constitute a crime" is an act done or forming part of a series of acts which would constitute its actual commission but for an interruption. An attempt is short of actual causation of crime and more than mere preparation. In Aman Kumar v. State of Haryana [Aman Kumar v. State of Haryana, (2004) 4 SCC 379 : 2004 SCC (Cri) 1266] it was held that an attempt is to be punishable because every attempt, although it falls short of success, must create alarm, which by itself is an injury, and the moral guilt of the offender is same as if he had succeeded. Moral guilt must be united to injury in order to justify punishment.

105. Further, in State of Maharashtra v. Mohd. Yakub [State of Maharashtra v. Mohd. Yakub, (1980) 3 SCC 57 : 1980 SCC (Cri) 513] this Court observed : (SCC p. 62, para 13)

"13. ... What constitutes an "attempt" is a mixed question of law and fact, depending largely upon the circumstances of a particular case. "Attempt" defies a precise and exact definition. Broadly speaking, all crimes which consist of the commission of affirmative acts are preceded by some covert or overt conduct which may be divided into three stages. The first stage exists when the culprit first entertains the idea or intention to commit an offence. In the second stage, he makes preparations to commit it. The third stage is reached when the culprit takes deliberate overt act or step to commit the offence. Such overt act or step in order to be "criminal" need not be the penultimate act towards the commission of the offence. It is sufficient if such act or acts were deliberately done, and manifest a clear intention to commit the offence aimed, being reasonably proximate to the consummation of the offence."

106. On the scope of proximity, it was elucidated in State of Maharashtra v. Mohd. Yakub [State of Maharashtra v. Mohd. Yakub, (1980) 3 SCC 57: 1980

SCC (Cri) 513] that the measure of proximity is not in relation to time and place but in relation to intention."

20. Considering the context and the intention with which the offending words were spoken in a public meeting, at this stage it cannot be said that the offence under Section 153-A IPC is not attracted against the petitioners. The scope of power under Section 482 Cr.P.C. is limited, and it should be exercised in exceptional cases where the complaint or charge sheet does not disclose any offence. Whether the offence under Section 153-A IPC gets attracted or not, would depend on the quality of evidence lead by the prosecution during trial. However, at this stage, this Court does not find any ground to interfere with the ongoing proceedings or the charge sheet.

21. Thus, the petition being devoid of merit and substance, is hereby dismissed. Interim order, if any, stands vacated. Trial court to proceed accordingly."

12. A challenge to the order dated 01.02.2023 passed in Criminal Misc. Application 482 No. 25838 of 2022 (Abbas Ansari and another vs. State of U.P. and 2 others) was done before the Apex Court in **Special Leave Petition (Criminal) Diary No. - 20449 of 2023 (Umar Ansari Vs. The State of Uttar Pradesh & others)** which came to be dismissed vide order dated 28.07.2023 with the observation that the said order will not foreclose the option of the petitioner to seek discharge at the appropriate stage of the proceedings in accordance with law. The said order reads as under:-

"Delay condoned.

We are disinclined to entertain the Special Leave Petition and accordingly the same stands dismissed.

This order will not foreclose the option of the petitioner to seek the discharge at the appropriate stage of the proceedings in accordance with law.

Pending application(s), if any, shall stand closed."

13. The co-accused Abbas Ansari has been granted bail in the present matter vide order dated 10.07.2023 by the Special Judge (M.P.s/M.L.A.s) / Additional Sessions Judge, Court No.4, Mau in Second Bail Application No. - 1252 of 2023 (Abbas Ansari vs. State of U.P.). The said order is annexed as Annexure-12 to the affidavit in support of this anticipatory bail application.

14. The co-accused Mansoor Ahmad Ansari has also been granted bail in the present matter vide order dated 24.02.2023 by the Special Judge (M.P.s/M.L.A.s) / Additional Sessions Judge, F.T.C.-1, Mau in Bail Application No. - 329 of 2023 (Mansoor Ahmad Ansari vs. State of U.P.). The said order is annexed as Annexure-13 to the affidavit in support of this anticipatory bail application.

15. Learned counsel for the applicant argued that the applicant is not the main accused in the present case. It is argued that co-accused Abbas Ansari is the main accused in the matter who has been granted bail by the concerned trial court. It is argued that as per the case of the prosecution, the applicant did not give any such speech prejudicial to law & order and extorting the public at large. It is argued that there is no overt act assigned to the applicant in the present matter. While placing paragraph no. 8 of the affidavit it is argued that the applicant is involved in 05 other criminal cases, the implication in the said cases is false. An explanation has been tendered with regards to the said cases from paragraph nos. 9 to 12 of the affidavit and by placing Annexure-2 & 3 of the affidavit which relate to the averments in paragraph nos. 10, 11 and 12 therein. It is argued that nature of the said cases would go to show that the same have been lodged only out of vengeance. The cases as disclosed against the applicant are as under:

(i) Case Crime No. 106 of 2022 under Sections 171-H, 188, 341 IPC, Police Station Kotwali Nagar, District Mau (stated that charge-sheet and cognizance order in this case is under challenge before this Court in which order is reserved on 27.07.2023, para 9),

(ii) Case Crime No. 689 of 2020 under Sections 120-B, 420, 323, 356, 467, 468, 472, 474, 417 IPC, Police Station Kotwali, District Ghazipur (stated to have been granted protection in this case alongwith co-accused by this Court vide order dated 12.7.2023, para 10),

(iii) Case Crime No. 236 of 2020 under Sections 120-B, 420, 467, 468, 471 IPC and Section 137 of The Representation of the Peoples Act, Police Station Hazratganj, District Lucknow (stated to be granted protection in this case by the Apex Court vide order 17.7.2023, para 11),

(iv) Case Crime No. 95 of 2022 under Sections 188, 171-F, 135 IPC, Police Station Kotwali, District Mau (stated to be a petty offence and on bail in this case, para 12),

(v) Case Crime No. 27 of 2022 under Sections 188, 171-H IPC and Section 137 of The Representation of the Peoples Act, Police Station Kotwali Nagar, District Mau (stated to be not nominated in this case and not received summons till date, but after getting relief in the present case will apply for bail in it, para 12).

It is argued that as such the applicant be granted anticipatory bail during the pendency of trial.

16. *Per contra*, learned Additional Advocate General with learned Additional Government Advocate for the State of U.P. while placing the counter affidavit of the State argued that the anticipatory bail application of the applicant filed u/s 438 Cr.P.C. was dismissed by the concerned trial court on 26.05.2022 after which the applicant approached this Court by filing the first anticipatory bail application in the present crime number being Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. - 9596 of 2022 (Umar Ansari vs. State of U.P.) which was got dismissed as not pressed on the ground that a better petition annexing some more documents and disclosing subsequent developments was intended to be filed and as such the said prayer was allowed with the said liberty. It is argued that the charge-sheet dated 11.05.2022 in the present matter was filed prior to the disposal of the anticipatory bail application by the concerned Sessions Judge on which even cognizance was taken and the accused persons were summoned vide order dated 23.05.2022 which was prior to the disposal of first anticipatory bail application by this Court. A Criminal Misc. Application U/S 482 No. - 25838 of 2022 (Abbas Ansari and another vs. State of U.P. and 2 others) was filed before this Court which was dismissed vide order dated 01.02.2023 and the said order was challenged before the Apex Court which also stood dismissed vide order dated 28.07.2023 in which liberty was granted to the applicant to seek discharge at the appropriate stage of the proceedings in accordance with law. It is argued that then filing of the present anticipatory bail application on 10.08.2023 was clearly an act of forum hunting as there was nothing fresh and new in the matter since the investigation had already concluded earlier which could have been filed earlier in the first anticipatory bail application or a subsequent anticipatory bail application after getting the first application dismissed as withdrawn for which liberty was sought while getting the first anticipatory bail application dismissed as not pressed by this Court on 17.10.2022. Further paragraph no. 9 of the counter affidavit has been placed before the Court while arguing that the applicant was not co-operating with the trial court and as such the trial court had issued process u/s 82 Cr.P.C. vide its order dated 28.08.2023 against him. Paragraph no. 9 of the counter affidavit which has been placed reads as under:-

"9. That it is further relevant to mention here that when the accused applicant was not appeared before the Learned Court below, and as such, the Learned Court below has issued process under Section 82 Cr.P.C. vide its order dated 28.08.2023."

17. It is argued that the applicant was summoned by the trial court vide order dated 23.05.2022 after which warrants were issued as he did not appear before it and then process u/s 82 Cr.P.C. was issued vide order dated 28.08.2023 against the applicant which in itself was sufficient to show his non-cooperation before the trial court. It is argued that in paragraph no. 8 of the rejoinder affidavit there is an attempt to reply paragraph no. 9 of the counter affidavit by stating that after the decision of the Apex Court on 28.07.2023 the present anticipatory bail application was filed on 08.08.2023 which could not be heard and as such the trial court was not justified in issuing process u/s 82 Cr.P.C. since copy of the anticipatory bail application was served on the State Counsel. It is argued that the said ground is not justifiable since the same would go to show that there has been an effort of not abiding by the orders of the trial court and intentionally flouting it despite the fact that the proceedings before the trial court had started. At this stage paragraph no. 8 of the rejoinder affidavit has been placed by the learned counsel for the State which reads as under:-

"8. That in reply to the contents of paragraph no. 9 of the Counter Affidavit, it is respectfully submitted here that after the decision of Hon'ble Apex Court on 28.7.2023, the applicant filed the present Second Anticipatory Bail Application before this Hon'ble Court on 8.8.2023 and the same could not be heard before this Hon'ble Court due to paucity of time. As such, during pendency of this application, the proceeding under section 82 Cr.P.C. was ordered by learned Trial Court. However, issuance of the proceeding of Section 82 Cr.P.C. itself was not justified when the applicant was before this Hon'ble Court and a proper notice was duly served to the State prior to filing the present Second Anticipatory Bail Application."

18. It is next argued on merits that in so far as the role and act of the applicant is concerned, considering the same after in-depth investigation a charge-sheet was filed against the applicant and co-accused on which the trial court had taken cognizance and summoned them which was subjected to challenge before this Court by both the accused persons which stood negated vide order dated 01.02.2023 against which the applicant who was one of the applicants in said 482 Cr.P.C. application took up the said order dated 01.02.2023 for challenge to the Apex Court wherein the said Special Leave Petition was also dismissed vide order dated 28.07.2023 and his option to claim discharge at the appropriate stage was kept open. It is argued that in so far as the incident and the allegations against the applicant are concerned, the same go to show that offence is made out which has been upheld right up to the Apex Court in a challenge by the applicant. It is argued that as such it cannot be said that

no offence is made out. It is argued that the applicant is indulged in forum hunting before this Court by filing an application u/s 438 Cr.P.C. being anticipatory bail application, getting the same not pressed on the pretext of filing a better petition with more documents and enumerating subsequent development, then challenging the charge-sheet and the summoning order issued by the trial court which was issued earlier to the filing of the first anticipatory bail application, being unsuccessful in the said attempt at the stage of the High Court in a challenge to the cognizance and summoning order of the trial court, challenging the same before the Apex Court which also was dismissed wherein liberty was granted to the applicant to seek discharge at the appropriate stage but then filing a second anticipatory bail application before the High Court without any new documents or subsequent development in the facts of the case on merits. It is argued that since the merits also do not go in favour of the applicant and he is indulged in the act of forum hunting as such his conduct does not call for any interference in the present second anticipatory bail application which deserves to be dismissed.

19. After having heard learned counsels for the parties, perusing the entire records and material on record, it transpires that the present application u/s 438 Cr.P.C. is a second application by the applicant. The first application u/s 438 Cr.P.C. with the same prayer was dismissed as not pressed on 17.10.2022 as prayed by learned counsel for the applicant by making a statement that he intends to file a better application annexing some more documents disclosing subsequent development. When the said first anticipatory bail application was got dismissed, the investigation in the matter had already concluded and a charge-sheet dated 11.05.2022 had already been filed against the applicant and co-accused Abbas Ansari on which the trial court took cognizance and summoned them to face trial vide order dated 23.05.2022. Since the investigation had concluded and charge-sheet was filed on which cognizance was taken and the accused persons were summoned, the part of investigation in the matter in so far as the applicant and co-accused Abbas Ansari are concerned stood concluded. The applicant and co-accused Abbas Ansari then challenged the charge-sheet and the order taking cognizance and summoning them before this Court in an application u/s 482 Cr.P.C. The said challenge stood rejected vide order dated 01.02.2023. Against the said order the applicant Umar Ansari only filed a Special Leave Petition before the Apex Court which was dismissed vide order dated 28.07.2023 but the said order stated that it would not foreclose the option of the petitioner therein to

seek discharge at the appropriate stage of the proceedings in accordance with law. Subsequent to it the present anticipatory bail application being the second anticipatory bail application was filed before this Court. The trial court then issued process u/s 82 Cr.P.C. vide its order dated 28.08.2023. The facts as enumerated above do show that after the dismissal of the first anticipatory bail application as not pressed on the ground of filing a better petition annexing some more documents and disclosing subsequent development, the applicant and co-accused challenged the proceedings of the trial court before this Court in which a specific challenge was of the charge-sheet, the order taking cognizance and summoning them. They were thus well informed about the proceedings against them of the trial court. The dismissal of the said 482 Cr.P.C. petition and also the dismissal of the Special Leave Petition by the Apex Court did not in any manner have any bearing on the investigation in the matter but the case would show that it is a fit matter for putting the applicant and co-accused up for trial and prima facie offence is made out. The applicant despite the same did not appear before the trial court. On the call through summoning order, warrants and then even through order issuing process u/s 82 Cr.P.C the applicant chose not to appear before the trial court despite the fact that two co-accused persons had appeared before it and were granted bail by it. He resorted to filing the present second anticipatory bail application. Subsequently at the last stage his challenge to the charge-sheet, cognizance and summoning order before the High Court got dismissed and then a challenge to the said order before the Apex Court also was dismissed.

20. In so far as the argument with regards to forum hunting is concerned, this Court in the case of ***Sayeed Ahmad vs. State of U.P. and another : Criminal Misc. Application U/S 482 No. 23735 of 2022***, decided on 14.02.2023 considered the argument and the issue with regards to forum hunting and in paragraph no. 22 referred to a judgement of the Apex Court dealing with the issue of forum hunting and concluded it as follows:-

*"22. The Apex Court in the case of **Vijay Kumar Ghai v. State of W.B. : (2022) 7 SCC 124** has in paragraphs 11, 12, 13, 14 and 17 while dealing with the issue of forum shopping and deprecating it has stated as follows:*

"11. Predominantly, the Indian Judiciary has time and again reiterated that forum shopping takes several hues and shades but the concept of "forum shopping" has not been rendered an exclusive definition in any Indian statute. Forum shopping as per Merriam-Webster Dictionary is:

"The practice of choosing the court in which to bring an action from among those courts that could properly exercise jurisdiction based on determination of which court is likely to provide the most favourable outcome."

12. *The Indian Judiciary's observation and obiter dicta has aided in streamlining the concept of forum shopping in the Indian legal system. This Court has condemned the practice of forum shopping by litigants and termed it as an abuse of law and also deciphered different categories of forum shopping.*

13. *A two-Judge Bench of this Court in Union of India v. Cipla Ltd. [Union of India v. Cipla Ltd., (2017) 5 SCC 262] has laid down factors which lead to the practice of forum shopping or choice of forum by the litigants which are as follows : (SCC pp. 318-20, paras 148-51 & 155)*

"148. A classic example of forum shopping is when litigant approaches one court for relief but does not get the desired relief and then approaches another court for the same relief. This occurred in Rajiv Bhatia v. State (NCT of Delhi) [Rajiv Bhatia v. State (NCT of Delhi), (1999) 8 SCC 525] . The respondent mother of a young child had filed a petition for a writ of habeas corpus in the Rajasthan High Court and apparently did not get the required relief from that Court. She then filed a petition in the Delhi High Court also for a writ of habeas corpus and obtained the necessary relief. Notwithstanding this, this Court did not interfere with the order [Priyanka Bhatia v. State (NCT of Delhi), 1999 SCC OnLine Del 192] passed by the Delhi High Court for the reason that this Court ascertained the views of the child and found that she did not want to even talk to her adoptive parents and therefore the custody of 12 the child granted by the Delhi High Court to the respondent mother was not interfered with. The decision of this Court is on its own facts, even though it is a classic case of forum shopping.

149. *In Arathi Bandi v. Bandi Jagadrakshaka Rao [Arathi Bandi v. Bandi Jagadraksha"148. A classic example of forum shopping is when litigant approaches one court for relief but does not get the desired relief and then approaches another court for the same relief. This occurred in Rajiv Bhatia v. State (NCT of Delhi) [Rajiv Bhatia v. State (NCT of Delhi), (1999) 8 SCC 525] . The respondent mother of a young child had filed a petition for a writ of habeas corpus in the Rajasthan High Court and apparently did not get the required relief from that Court. She then filed a petition in the Delhi High Court also for a writ of habeas corpus and obtained the necessary relief. Notwithstanding this, this Court did not interfere with the order [Priyanka Bhatia v. State (NCT of Delhi), 1999 SCC OnLine Del 192] passed by the Delhi High Court for the reason that this Court ascertained the views of the child Anka Rao, (2013) 15 SCC 790 : (2014) 5 SCC (Civ) 475] this Court noted that jurisdiction in a court is not attracted by the operation or creation of fortuitous circumstances. In that case, circumstances were created by one of the parties to the dispute to confer jurisdiction on a particular High Court. This was frowned upon by this Court by observing that to allow the assumption of jurisdiction in created circumstances would only result in encouraging forum shopping.*

150. *Another case of creating circumstances for the purposes of forum shopping was World Tanker Carrier Corpn. v. SNP Shipping Services (P) Ltd. [World Tanker Carrier Corpn. v. SNP Shipping Services (P) Ltd., (1998) 5*

SCC 310] wherein it was observed that the respondent/plaintiff had made a deliberate attempt to bring the cause of action, namely, a collision between two vessels on the high seas within the jurisdiction of the Bombay High Court. Bringing one of the vessels to Bombay in order to confer jurisdiction on the Bombay High Court had the character of forum shopping rather than anything else.

151. Another form of forum shopping is taking advantage of a view held by a particular High Court in contrast to a different view held by another High Court. In *Ambica Industries v. CCE* [*Ambica Industries v. CCE*, (2007) 6 SCC 769] the assessee was from Lucknow. It challenged an 13 order [*Ambica Industries v. CCE*, 2003 SCC OnLine CESTAT 1365] passed by the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT") located in Delhi before the Delhi High Court. CESTAT had jurisdiction over the State of Uttar Pradesh, NCT of Delhi and Maharashtra. The Delhi High Court did not entertain the proceedings initiated by the assessee for want of territorial jurisdiction. Dismissing the assessee's appeal this Court gave the example of an assessee affected by an assessment order in Bombay invoking the jurisdiction of the Delhi High Court to take advantage of the law laid down by the Delhi High Court or an assessee affected by an order of assessment made at Bombay invoking the jurisdiction of the Allahabad High Court to take advantage of the law laid down by it and consequently evade the law laid down by the Bombay High Court. It was said that this could not be allowed and circumstances such as this would lead to some sort of judicial anarchy.

155. The decisions referred to clearly lay down the principle that the court is required to adopt a functional test vis-à-vis the litigation and the litigant. What has to be seen is whether there is any functional similarity in the proceedings between one court and another or whether there is some sort of subterfuge on the part of a litigant. It is this functional test that will determine whether a litigant is indulging in forum shopping or not."

14. Forum shopping has been termed as disreputable practice by the courts and has no sanction and paramountcy in law. In spite of this Court condemning the practice of forum shopping, Respondent 2 filed two complaints i.e. a complaint under Section 156(3) CrPC before the Tis Hazari Court, New Delhi on 6-6-2012 and a complaint which was eventually registered as FIR No. 168 under Sections 406, 420, 120-B I.P.C. before P.S. Bowbazar, Calcutta on 28-3-2013 i.e. one in Delhi and one complaint in Kolkata. The complaint filed in Kolkata was a reproduction of the complaint filed in Delhi except with the change of place of occurrence in order to create a jurisdiction.

17. A two-Judge Bench of this Court in *K. Jayaram v. BDA* [*K. Jayaram v. BDA*, (2022) 12 SCC 815 : 2021 SCC OnLine SC 1194] observed : (SCC para 14)

"14. It is necessary for us to state here that in order to check multiplicity of proceedings pertaining to the same subject-matter and more importantly to stop the menace of soliciting inconsistent orders through different judicial

forums by suppressing material facts either by 14 remaining silent or by making misleading statements in the pleadings in order to escape the liability of making a false statement, we are of the view that the parties have to disclose the details of all legal proceedings and litigations either past or present concerning any part of the subject matter of dispute which is within their knowledge. In case, according to the parties to the dispute, no legal proceedings or court litigations were or are pending, they have to mandatorily state so in their pleadings in order to resolve the dispute between the parties in accordance with law."

The said petition was dismissed on various counts including forum hunting.

21. Although a case for interference could have been made out but looking to the facts and circumstances of the case cumulatively being on merits of the matter since offence is made out, his act of forum hunting, the fact that two co-accused Abbas Ansari and Mansoor Ahmad Ansari have been granted bail by the trial court, further considering paragraph nos. 8 to 12 of the affidavit in support of anticipatory bail application disclosing and explaining the criminal history of the applicant which would go to show that the applicant is indulged in various types of criminal activities and his non-cooperation with the trial proceedings, this Court is of the view that present anticipatory bail application be dismissed.

22. The present anticipatory bail application is accordingly, *dismissed*. The interim order is hereby vacated.

Order Date :- 19.12.2023

AS Rathore

(Samit Gopal, J.)