

MHNG010039372025



**IN THE COURT OF ADHOC DISTRICT JUDGE-4 AND
ADDITIONAL SESSIONS JUDGE, NAGPUR.**

(Presided over by M.B. Oza)

Cr. Bail Application No. : 914/2025.

Exh.1.

Applicant /Accused

Mohammad Hamid Mohammad Hanif

Aged about 69 years, Occu. : Labour

R/o Flat No. 406, Seva Sadan Apartment, C.A

Road, Sewa Sadan Chowk, Gandhibagh, Nagpur

-Versus -

Non Applicant

:- The State of Maharashtra
Through P.S.O. P S Cyber, Sadar
Dist. Nagpur.

ORDER BELOW EXHIBIT – 1.

(Passed on 21.04.2025)

The applicant/ accused has filed this application under Section 483 of B.N.S.S. (439 of Criminal Procedure Code). Applicant/ accused is arrested for an offence punishable U/Sec. 192, 196, 353(1)(b), 353(1)(c), 353(2) of BNS and section 66(c), 66(d) of Information and Technology Act

2.

Cr Bail Appl No.914/2025
Mohd. Hamid/ State
O.B. Exh. 1

in Crime No. 27/2025 registered with Cyber Police station Sadar, Nagpur. The applicant/ accused is in jail from 19/03/2025.

02. The applicant/ accused has stated in the application that the story of prosecution is that the F.I.R. was lodged by complainant PHC Parth Surendra Shukla. The complainant was on duty on 17/03/2025. From 17/03/2025 at 8.30 p.m to 19.03.2025 till 3 p.m, there were social media news about the riots that took place on 17/03/2025 in Nagpur. The complainant was checking the social media mobile which social media messages were shared online. The complainant also found such news on social media that people had gathered and Aurangjeb photos is being burnt. This social media messages instigated violence in Nagpur. The complainant also gone through URL and I.D text messages which spread violence. The complainant had given complaint about this wrongfull messages. The complainant lodged the complaint with the P.S.O. P. S Cyber/, Sadar and F.I.R No. 27/2025 was registered. The police officer started investigation and accused came to be arrested on 19/03/2025.

03. The applicant has stated in the application that accused is innocent and not committed any offence. The applicant has stated that allegations in the FIR are false and no specific role is attributed against the applicant as the applicant has posted on 16/03/2025 and submitted that kabar of Aurangjeb is heritage site and therefore nobody can touch the said kabar. The applicant is 69 years of age. The applicant has stated that prior to this FIR in respect of the same incident, the applicant has lodged the

3.

Cr Bail Appl No.914/2025

Mohd. Hamid/ State

O.B. Exh. 1

report and on the basis of said report, the respondent PSO has registered crime No.114/25 dated 17/03/2025 at 3 p.m against the 9 persons of Vishwa Hindu Parishad and Bajrang Dal who shouted slogan at the said place for removal of kabir of Aurangzeb. The applicant submits that communal violence was not instigated by the post shared by the applicant and applicant has not played any active role. Applicant/ accused stated in the bail application that he was for sufficient time in PCR and now he is in jail. Applicant / accused stated in the bail application that investigation is almost over in respect of him. Applicant/ accused stated that the applicant have co-operated with the investigation. Applicant/ accused stated that there is no link to establish the alleged crime with the applicant and there is no direct evidence against him. Applicant/ accused stated that the material investigation is almost completed. Applicant/accused stated that applicants have co-operated with the investigation agency and there is no recovery is to be done at the instance of applicants. Applicant/ accused stated that no fruitful purpose will be served to keep the applicant behind the bar. Applicant/ accused stated that accused has no previous criminal record and applicant will not abscond. Applicant/accused stated that family members are dependent on him. Applicant/ accused stated that applicant is ready to furnish surety and bail bond and bind himself by terms and condition of bail. The applicant finally prayed to grant the bail.

04. Investigating officer filed say at Exh.4 and opposed the application. The I.O has stated that there is concrete evidence showing the

4.

Cr Bail Appl No.914/2025
Mohd. Hamid/ State
O.B. Exh. 1

involvement of accused in the crime. The I.O stated that if the applicant/accused is released on bail he will tamper with the evidence. The I.O has stated that accused if released on bail, he will abscond and will not co-operate with the investigation. The I.O has prayed for rejection of application.

05. The advocate for accused argued that accused is innocent. The advocate for applicant argued that false case is filed. The advocate for accused argued that there is no evidence against the accused. The advocate for accused argued that accused is not involved in the offence. The advocate for accused argued that investigation in respect of this accused is over and nothing is to be recovered. The advocate for accused argued that having responsibility of family. The advocate for accused argued that accused will not abscond. The APP argued that the offence is very serious. The APP further argued that the accused if released on bail will incite violence and there can be law and order problem. The APP further argued that accused is responsible for instigating the violence in Nagpur. The APP further argued that if bail is granted to accused, he will tamper with prosecution evidence. The APP argued that application is devoid of merits and prayed to reject the application.

06. Considered the application, say and argument of both the sides. The accused stated in the application that, he is innocent and falsely implicated in the present crime. The accused is in jail from 19/03/2025

and 1 month has passed. This accused was for sufficient time in PCR and investigation in respect of this accused is over. Nothing more investigation remains from this accused. Bail is rule and jail is exception. The requirement of bail is to secure the attendance of the prisoner and it is proper to give bail wherever practical unless there are strong ground for supposing that, such persons would not appear to face the trial. The Accused is a young age of 69 years and having permanent address of Nagpur. In ***Khemlo Sakharam Sawant Vs. State of Maharashtra 2002 (1) BOM C.R.689*** the Hon'ble Court observed that, bail is rule and jail an exception. In ***Nikesh Tarachand Shah Vs. Union of India, 2018 (11) S.C.C.1 the Hon'ble Supreme Court*** observed that, grant of bail is the rule and refusal is an exception and accused person who enjoys freedom will be in a much better position to defend himself than if he were in custody. In case of ***Sanjay Chandra Vs. Central Bureau of Investigation reported in (2012) 1 Supreme Court Cases (Cri) 26*** Hon'ble Supreme Court observed that, gravity alone can not be decisive ground to deny bail. ***In case of P. Chitambaram V/s Directorate of Enforcement Cri. Appeal No. 1821/2019 D/o 04.12.2019 Hon'ble Supreme Court*** observed that grant of bail is the rule and refusal is exception so as to ensure that the accused has the opportunity of securing fair trial. ***In case of Gajanan V/s State of Maharashtra Cri. Appln. No. 485/2021 D/o 10/06/2021 Hon'ble Bombay High Court (Nagpur Bench)*** observed that although economic offences are serious offences but bail jurisprudent will require that each case is considered on his own facts keeping in mind grant of bail is rule and refusal

6.

Cr Bail Appl No.914/2025
Mohd. Hamid/ State
O.B. Exh. 1

is exception. In case of **Javed Ahmed Hajam V/s State of Maharashtra and another reported in (2024) ACR 370** wherein Hon'ble Supreme Court observed that merely because of few individuals may develop hatred or ill-will, it will not be sufficient to attract clause (a) of sub-section (1) of section 153-A of IPC. All the above case laws are applicable to the present case. The investigation in respect of these accused is almost over. The completion of investigation will take time and filing of chargesheet will also take time. The accused is senior citizen about 69 years. Keeping him in jail will not be proper. The prosecution has not produced any documents to show that there is previous conviction of this accused in any such crime. If accused remains in jail for long time and not released on bail he and his family will suffer in life which is not good for their future. There is time for filing chargesheet and also thereafter trial will not get over in short time. No purpose would be served by keeping the accused behind bar. To put restriction on any misused of bail by applicant conditions like visit to police station can be imposed on applicant. There is no more requirement of custody of accused. The prosecution will not suffer if this accused is released on bail with stringent conditions. With the conditions bail can be granted to the accused. Hence, the order.

ORDER

- (i) The regular bail application (Exh.1) of accused in Cr.No. 27/2025 of PSO PS Cyber/Sadar is allowed.

7.

Cr Bail Appl No.914/2025
Mohd. Hamid/ State
O.B. Exh. 1

- (ii) The applicant/accused **Mohammad Hamid Mohammad Hanif** is hereby released on accused furnishing Personal Bond of Rs.50,000/- with one or more solvent surety in the like amount.
- (iii) The applicant/accused is directed not to tamper with the prosecution witnesses.
- (iv) He is further directed to attend the I.O office whenever called by I.O and co-operate with investigation. He is further directed to attend the Court dates scrupulously.
- (v) He is further directed not to leave India without permission of the Court.
- (vi) He is further directed to furnish copy of Adhar Card, Ration Card or any document of address proof and cell number at the time of furnishing surety.
- (vii) Bail before the Trial Court.

Nagpur.
Dated : 21.04.2025

(**M.B. Oza**)
Adhoc District Judge 4 and A.S.J,
Nagpur.