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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 342 OF 2020

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Urvashi Chudawala ... Applicant

vs.

State of Maharashtra ...Respondent

Mr.Vijay Hiremath for applicant.

Ms. Anamika Malhotra, APP for State.

Mr. Nilesh Bagul (P.I.), Azad Maidan Police Station.

CORAM : N. J. JAMADAR, J.

DATE : 30th OCTOBER , 2021

P.C.:

1. Heard the learned counsel for the applicant and the learned APP.
2. The applicant has preferred this application for pre-arrest bail in C.R. No.28 of 2020 registered with Azad Maidan Police Station, Mumbai, for the offences punishable under sections 124-A, 153-B and 505 read with section 34 of the Indian Penal Code, 1860.
3. The gravamen of indictment against the applicant is that the applicant participated in a gathering of persons supporting the cause of the Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LDGTQI) community at the Azad Maidan on 1st February 2020 and raised objectionable slogans.

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4. In the order dated 11th February 2020, while granting interim relief, this Court recorded elaborate reasons. Paragraph Nos. 12 and 13 read as under :

“12. Be that as it may, prima-facie, it appears, the applicant raised the slogans as reproduced hereinabove to exhibit her solidarity with the persons who had been exercising their fundamental right to dissent. It is therefore to be stated that, merely showing solidarity with a person or a group of persons, who are exercising their opposition to the CAA and National Register of Citizens, prima-facie, may not be sufficient to believe that the applicant had in fact caused and/or attempted to cause disaffection against the government established by law either by prior enmity between different religious groups or otherwise to create disharmony. Moreso, slogans shouted, prima-facie cannot be perceived as threat to the integrity of the Nation. In a like manner, except slogans, no material has been brought to my notice to even illustrate that, she had shared Sharjil s alleged ideology, for which’ he has been charged.

13 Applicant is a student and is actively involved in organising rallies for supporting the cause of LGBTQT+. She has permanent roots in the Society and is 22 years old and would therefore always be available for investigation. In fact,her arrest may malign her reputation in the Society. In view of the facts of the case, in my view, a case is made out for granting interim relief to the applicant.”

5. The learned APP, on instructions, submits that the investigation has reached an advanced stage and only forensic reports are awaited.

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6. In the backdrop of the nature of accusation, and the reasons ascribed by this Court, while granting interim relief, which govern the determination of the application finally as well, at this length of time, the custodial interrogation of the applicant does not seem warranted for investigation.

7. The application, therefore, deserves to be allowed. Hence, the following order :

O R D E R

(i) The interim order dated 11th February 2020 is made absolute on the following terms and conditions:

(a) The applicant shall co-operate with the investigating agency.

(b) The applicant shall appear before the Investigating Officer, as and when directed.

(c) In the event, post-completion of investigation, the charge-sheet is lodged against the applicant, the applicant shall attend the jurisdictional court regularly.

(d) The applicant shall not leave the country, without prior permission of this Court, till the charge-sheet or closure report is filed, and without

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the prior permission of the jurisdictional Court,
after the charge-sheet is lodged.

The application stands disposed of.

(N. J. JAMADAR, J.)