

Court No. - 1

Case :- CRIMINAL APPEAL No. - 38 of 2022

Appellant :- Irfan Shaikh @ Irfan Khan

Respondent :- State Of U.P. Through Ats

Counsel for Appellant :- Furkan Pathan, Aarif Ali, O.P. Tiwari

Counsel for Respondent :- G.A.

Hon'ble Ramesh Sinha,J.

Hon'ble Brij Raj Singh,J.

- (1) The instant criminal appeal has been filed by the appellant, **Irfan Shaikh alias Irfan Khan**, under Section 21 (4) of the National Investigation Agency Act, 2008 (hereinafter referred to as “**Act, 2008**”), challenging the order dated 21.10.2021 of refusal of bail to the appellant by the learned Special Judge, N.I.A./A.T.S./Additional District & Sessions Judge, Court No.3, Lucknow in Bail Application No. 6152 of 2021 : *Irfan Khan alias Irfan Shaikh Vs. State of U.P.*
- (2) It transpires that S.I. Vinod Kumar had furnished an information to A.T.S. that some anti-national/anti-social elements and religious organizations, on the dictate of ISI and foreign organizations, have indulged in getting the peoples converted in Islam by getting funds from foreign countries for this purpose. Such anti-national/anti-social elements have targeted the people by creating and promoting rumor about other religion by giving hatred speech, by insulting the religion and religious feelings of a class of citizens with deliberate and malicious intention. It also alleged that such anti-social and anti national have targeted the peoples of weaker sections of the society, children, women and people belonging to Scheduled

Caste and Scheduled Tribes etc. Their object and goal is to change the demography of country by converting the citizen from one religion to another religion and to disturb the peace and tranquility of society and to disturb the public order.

On the aforesaid information and during interrogation in Case Crime No. 473 of 2001, registered under Sections 419, 420, 295A, 505, 506 I.P.C., Police Station Masoori, Ghaziabad, it came out that accused Umar Gautam, who is a converted Muslim, is involved in getting the citizen of another religion converted to Muslim religion on large scale and about 1000 non-muslims have been converted and married with muslims, it also came out that accused Umar Gautam and his associates are running an organization, namely, Islamic Dawa Centre for the said purpose of conversion and huge fund is being provided to Islamic Dawa Centre from different sources including foreign countries. It also came out that students of deaf and dumb school, namely, NOIDA Deaf Society have been converted in illegal manner by practicing misrepresentation, allurement and fraudulent means. On enquiry, it was found that a Case Crime No. 247 of 2021 was registered under Section 364 I.P.C. for kidnapping of one Aditya Gupta and his parents stated that his son was forcibly converted and was taken to somewhere in the southern part of India.

On the aforesaid information, First Information Report i.e. Crime No. 09 of 2021, under Sections 420, 120-B, 153A, 153B, 295A, 511 I.P.C. and Section 3/5 of the Uttar Pradesh

Prohibition of Unlawful Conversion of Religion Act, 2021 has been registered on 20th June, 2021 at Police Station ATS, Gomti Nagar, Lucknow against accused Umar Gautam, Mufti Qazi Jahangir Qasmi, Chairman Islamic Dawa Centre and unknown persons.

During investigation of the aforesaid case crime No. 9 of 2021, it was found by the Investigating Officer that accused Umar Gautam had created a gang for the aforesaid aim and object and Irfan Khan (appellant), who was working as Interpreter in Sign Language Training and Research Centre, New Delhi, was a vital link of this syndicate. The name of the appellant Irfan Khan came in light of the statements of co-accused Jahangir and Rahul Bhola. After that, the Investigating Officer, on collecting material and clinching evidence against the accused persons including the appellant, filed charge sheets (Annexure Nos. CA-36 to 40 to the counter affidavit).

The appellant had filed application for bail, bearing No. 6152 of 2021, before learned Special Judge, N.I.A./ A.T.S./Additional District & Sessions Judge, Court No.3, Lucknow, which was rejected vide order dated 21.10.2021. Hence the instant criminal appeal under Section 21 (4) of the National Investigation Agency Act, 2008 has been filed before this Court, challenging the aforesaid order dated 21.10.2021

- (3) Heard Shri O.P. Tiwari and Shri Furkhan Pathan, learned Counsel for the appellant, Shri S.N. Tilhari, learned Additional

Government Advocate for the State-respondent and perused the material brought on record.

- (4) It has been argued by counsel for appellant that appellant is not the member of any association nor involved in any crime. He argued that appellant was not named in the F.I.R. nor having any relation with co-accused Umar Gautam. The appellant has falsely been roped in the crime in question without any evidence. He further argued that the appellant also have no concern with Case Crime No. 247 of 2021 and even in the statement of victim Aditya Gupta of Case Crime No. 247 of 2021 or his family members have also not disclosed the name of the appellant. He argued that only on the basis of statement of co-accused, the appellant has been made an accused in the instant case and there is no other evidence available against the appellant.
- (5) Learned Counsel for the appellant has further argued that as per the statement of Aditya Gupta *alias* Abdul Kadir recorded under Section 164 Cr.P.C., the appellant and other persons was found to be sitting at the Office of Islamic Dawah Centre (hereinafter referred to as "I.D.C.") and the Office of Umar Gautam, which is known by the name of the I.D.C. He further argued that the appellant being innocent and law abiding citizen has been falsely implicated in the present case though he belongs from a respectable family. He has contributed a lot not only for deaf people but society at large. He has been working as an

Interpreter in Indian Sign Language Training and Research Centre, Okhla, New Delhi (hereinafter referred to as "ISLRTC") since 2016 under Ministry of Social Justice and Empowerment. He was one of the best 25 Interpreter during his college life and he is gold medalist and the institute, where the appellant was serving i.e. esteemed one of the best interpreter institutes of India. He participated in many esteemed events conducted by the Central Government and State Government and various institutes across the country. He had also represented India in abroad. He next argued that the statement of Aditya Gupta recorded under Section 161 Cr.P.C. by the A.T.S. is absolutely a false one and on a similar line, the statements of other witnesses, namely, Mohd. Shabba and Firoz Ahmad, were also recorded.

- (6) It has been argued by the learned Counsel for the appellant that the appellant has no criminal antecedents and the initial charge-sheet was submitted against the appellant on 13.08.2021 and offence under Section 121A, 123 I.P.C. was added by means of supplementary charge-sheet filed on 17.09.2021. He argued that the trial Court had passed the impugned order rejecting the bail application only on surmises and conjectures and without considering the statement of the whole witnesses. He argued that the appellant is languishing in jail since 28.06.2021. Hence he prays to enlarge the appellant on bail.

- (7) Learned A.G.A., on the other hand, vehemently opposed the prayer of the appellant for grant of bail and argued that the A.T.S., after due investigation, recorded statements of various witnesses. The involvement of the appellant in commission of present crime was found during the investigation. He argued that as per the statement of three witnesses i.e. Aditya Gupta alias Abdul Kadir, Mohd. Shabba and Firoz Ahmad, the appellant along with other co-accused persons, namely, Umar Gautam, Asif, Munna Yadav, who have stated that the appellant has played a constructive role in conversion of deaf and dumb person by misrepresentation etc. in persuading the deaf and dumb students in sign languages. He argued that from the statement recorded under Sections 161 and 164 Cr.P.C. of Aditya Gupa, Faraz Ahmad, Mohd. Shabba, the appellant got illegal conversion of deaf and dumb people from Hinduism to Islam, who disclosed that being an employee of the Central Government, he is authorized by the Central Government for the said work and many of the students sitting in ISLRTC have been converted to Islam. He was constant touch with other co-accused persons and used to visit I.D.C. as well as he misused his official position to commit the offence in question. He next argued that during investigation, material and clinching evidence have been collected against the appellant along with co-accused persons and as such charge-sheet No.11/21 dated 13.08.2021 has been filed under Sections 417, 120-B, 153A, 153B, 295A, 298 I.P.C. and Sections 3/5/8 of U.P. Prohibition

of Unlawful Conversion of Religion Act, 2021 against the appellant and co-accused Mohd. Umar Gautam, Mufti Kazi Jahangir Alam Qasmi, Rahul Bhola, Munna Yadav, Salahuddin Sheikh has been filed and further it was found during the course of investigation that offence under Sections 121-A and 123 I.P.C. have been also found to be committed by the appellant along with co-accused Mohd. Umar Gautam and as such, another charge-sheet No.11A dated 17.09.2021 has been filed against the appellant and co-accused. Hence, he argued that the appellant is not entitled to be enlarged on bail.

- (8) Pleadings between the parties have been exchanged.
- (9) We have examined the submissions advanced by the learned Counsel for the parties, perused the impugned order and the material brought on record.
- (10) It transpires from the record that though appellant was not named in the First Information Report but during investigation, his involvement in the instant crime surfaced from the statements of co-accused Jahangir and Rahul Bhola recorded under Section 161 Cr.P.C. as is evident from Annexure CA-3 and CA-4 to the counter affidavit. It also transpires that during investigation, the Investigating Agency found that appellant-Irfan Khan had played an indispensable role in the conversion of deaf and dumb persons by misrepresentation etc. and has played special role in persuading the deaf and dumb students in

sign language. Furthermore, in the statement recorded under Sections 161 and 164 Cr.P.C., witness Firoz, who is the Notary Advocate, has stated that the Notary form was brought by the appellant for illegal conversation and it was disclosed by the appellant that being employee of Central Government, he is authorized by the Central Government for this work. During investigation, the Investigating Officer had also found that many students studying in Noida Deaf Society have been converted to Muslim religion and the appellant was also involved in the crime in question in view of the statements of witnesses Laxmi Gupta, Aditya Gupta, Firoz Ahmad, Mohd. Sabba.

- (11) A perusal of Annexure CA-17, CA-18, CA-20 and CA-21 of the counter affidavit shows that the Islamic Dava Centre is being run by Fatima Charity Foundation of accused Umar Gautam having an account in the name of Fatima Chairtable Foundation in Kotak Mahindra Bank (Account No. 0711131345). There is no bank account in the name of Islamic Dava Centre. A huge amount has been received in the personal bank accounts of accused Umar Gautam and accused Abdullah Umar son of Umar Gautam for running the activities of Islamic Dava Centre. Furthermore, Annexure No.CA-22, which is a copy of the chat received from the extracted data of mobile phone of accused Umar Gautam from Forensic Science Laboratory, shows the chat between accused Umar Gautam and

one person, namely, Irfan Atlantaa and also conversation about paying money to new muslims in India in their bank accounts has been mentioned in the chat.

(12) Considering the facts and circumstances of the case, particularly the fact that the Investigating Officer, after due investigation, has found cogent and clinching evidence against the appellant that with the connivance of co-accused Umar Gautam and others, appellant is involved in anti-national activities of conversation by misusing his official position while working in Sign Language Training and Research Centre, New Delhi as Interpreter, we do not find any good ground to grant bail to the appellant.

(13) Accordingly, while affirming the impugned order dated 21.10.2021, the instant criminal appeal of the appellant-**Irfan Shaikh @ Irfan Khan**, involved in Case Crime No.9/2021, under Sections 120B, 121A, 123, 153A, 153B, 295A, 298, 417 I.P.C. and Section 3/5/8 U.P. Prohibition of Unlawful Conversion of Religion Ordinance, (Act), 2021, P.S. ATS U.P., District Lucknow, is **dismissed**.

(Brij Raj Singh, J.) (Ramesh Sinha, J.)

Order Date :- 25.3.2022
Shubhankar