



2025:DHC:8962



\$~

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Pronounced on: 09<sup>th</sup> October, 2025

+ BAIL APPLN. 3126/2025

AJAZ KHAN

.....Petitioner

Through: Mr. Khalid Akhtar, Mr. Bilal  
Khan, Md. Shadan, Mr.  
Ahteshanuddin, Advs.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan,  
APP with Insp. Sandeep  
Panwar and SI Naveen, P.S.  
Cyber Central.

CORAM:-

HON'BLE MR. JUSTICE RAVINDER DUDEJA

**JUDGMENT****RAVINDER DUDEJA, J.**

1. The present application has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') [earlier Section 482 of Code of Criminal Procedure, 1973 ('CrPC')] read with Section 438 Cr.P.C for the grant of anticipatory bail on behalf of the petitioner, in case FIR No. 41/2025 under Sections 79 Bhartiya Nyaya Sanhita, 2023 (hereinafter referred to as BNS)[earlier Section 509 of the Indian Penal Code, 1860 ('IPC')] and



67 Information Technology Act, 2000 (hereinafter referred to as IT Act), registered at Police Station Cyber Police Station.

### **FACTUAL MATRIX**

2. That the facts in brief are as follows:

2.1. The complainant is the mother of a famous Indian Youtuber (since 2015), actor and comedian namely Harsh Beniwal, currently having 16.1 million subscribers on his Youtube channel with the handle @TheHarshBeniwal, 6.7 million followers on his Instagram Account in the name of @harshbeniwal and with around 1 million followers on his X account having username @iamharshbeniwal.

2.2. The present petitioner is an Indian actor who has acted in several films and television daily soaps in his career, currently having 1.62 million subscribers on his Youtube channel with the handle @AjazKhanOfficial, 5.7 million followers on his Instagram handle in the name of @imajazkhan and with 408K followers on his X account with the username @AjazkhanActor.

2.3. On 16.09.2024, the son of the complainant recorded and posted a parody video solely for the purpose of entertainment titled as “A Day With Najayaz Bhai” on his Youtube channel. The said video contained a categorical disclaimer “*This is purely work of fiction and any resemblance to person living/dead is purely coincidental....*”.



2.4. That after posting of the said video, the petitioner released a reaction video through his official social media handles, wherein, he uttered sexually explicit remarks against the complainant and her daughter.

2.5. That after posting such video, petitioner again posted a video wherein he issued threats.

2.6. On 23.04.2025, FIR No. 41/2025 was registered under sections 79 BNS and 67 IT Act at Cyber Police Station based on a complaint by complainant against the petitioner alleging that the petitioner published and circulated offensive and sexually explicit reaction video targeting her and her daughter.

2.7. Subsequently, notice under section 35(3) of BNSS was served upon the father of the petitioner with directions to petitioner to appear before the investigating agency.

### **SUBMISSIONS OF THE PETITIONER**

3. Ld. Counsel for the petitioner submits that the video uploaded by the petitioner was in retaliation to the video uploaded by the son of the complainant. His submissions in support of their request are summarized as follows:

3.1. The son of the complainant being a social media influencer, used derogatory words, abuses, obscene gestures such as calling him Drug Peddler, molestor etc. and posted a 35



minutes video on his Youtube channel and in retaliation to which petitioner posted a video which was later taken down.

3.2. Section 35(3) BNSS notice dated 26.06.2025 was served to petitioner's father and not to the petitioner himself. Petitioner was unable to comply with the said notice due to a medical emergency involving his father, suffering from multiple age related ailments including severe cardiac complications and requiring urgent care. On 01.07.2025, petitioner sent an email to the SHO of Cyber Crime Police station seeking adjournment of appearance on the abovementioned ground, which was duly acknowledged by the Investigating Officer, thereby allowing petitioner to appear at a later date.

3.3. During the pendency of the proceedings, petitioner was granted anticipatory bail in another case bearing FIR No. 123/2025, regarding sexual offences under sections 64/64(2)(M)/69/74 of BNS (earlier Section **376/69/354 of IPC**), registered at PS Borivali with directions to the petitioner to join investigation on certain dates. i.e. 6-8<sup>th</sup> July, 2025. Upon joining investigation on 8<sup>th</sup> July, the petitioner was orally directed by Mumbai police to stay in Bombay and not leave because he might be wanted in the said case.

3.4. On 10.07.2025, petitioner sent another email along with relevant court orders to respondent, informing them of the



Bombay High Court's order, confirming his compliance and reiterating his request for a rescheduled appearance in Delhi.

3.5. In compliance to the orders of the Bombay High Court, petitioner submitted all his electronic devices, including his mobile phone to the Bombay police and is thus not having any device in his custody.

3.6. Petitioner filed an application for anticipatory bail before the Trial court which was dismissed vide order dated 05.08.2025 on the ground that the allegations against the petitioner are serious, he has not joined the investigation despite issuance of notice and the alleged digital device was yet to be recovered.

3.7. Petitioner undertakes that he is willing to join and participate in the investigation and is willing to give his voice samples before the FSL, however, since all his digital devices are already in custody with the Bombay police, he cannot submit the same until given back by Bombay Police.

3.8. He further submits that the evidence in the present case is documentary in nature and custodial interrogation is not required for recovery of documentary evidences.

#### **SUBMISSIONS ON BEHALF OF THE STATE**

4. Per Contra, Mr. Yudhvair Singh, Ld. APP for the state, as per instructions from the Investigating Officer submits the following:



4.1. Based on a complaint by the complainant, FIR No. 41/2025 was registered under sections 79 BNS and 67 IT Act at Cyber Police Station and subsequently, petitioner was served with a notice under section 35(3) BNSS, dated 07.05.2025.

4.2. That despite the service of notice, petitioner failed to appear before the investigating agency and after waiting for over 50 days, a second notice under section 35(3) BNSS was served to petitioner on 26.06.2025, despite which petitioner remained non-compliant and did not join the investigation.

4.3. That on 01.07.2025, petitioner sent an email citing his father's serious illness as the reason for his non-appearance. However, no medical document or proof was attached. Nonetheless, on humanitarian grounds, petitioner was granted two more days than what was requested, but still he did not join the investigation.

4.4. That petitioner is attempting to mislead the Court by citing an unrelated FIR No. 123/2025, registered at Borivali Police Station, Mumbai and claiming that the High Court at Bombay directed him to join the investigation in that matter between 06.07.2025–08.07.2025, just as a deliberate attempt to delay the ongoing investigation.

4.5. That the conduct of the petitioner reflects deliberate evasion and continuous non-cooperation, which severely





hampered the investigation. Despite receiving reasonable opportunities, he has chosen not to join the investigation.

4.6. That the petitioner is a person of considerable online influence and media reach and may threaten or influence the witnesses, potentially leading them to retract from their statements or abstain from cooperation. Furthermore, he is a habitual offender with multiple FIRs already registered against him.

4.7. That the offences alleged carry grave social implications, especially in the context of online gender based abuse, vulgarity and digital defamation and therefore such actions must be curbed through strict legal enforcement, particularly to prevent misuse of social platforms and protect the dignity of women.

### **ANALYSIS & CONCLUSION**

5. The Court has considered the rival submissions. The stand of the petitioner is that the video made by him was in retaliation to the derogatory and defamatory video made by the son of the complainant wherein he referred the applicant as “*bastard-najaayaz khan*” and the video was latter taken down.

6. Undisputedly, the Bombay High Court, while granting interim protection to the petitioner, issued directions to him to surrender his mobile phone, laptop and any other electronic device and consequent to the said directions, petitioner has surrendered his electronic devices



2025:DHC:8962



i.e. I- Phone and I-Pad with the police department, as is evident from the notice of Borivali Police Station, and thus that being so, the devices are already in the custody of Bombay Police and are not to be recovered from the petitioner.

7. The Court takes note that both the petitioner and the son of the complainant are social medial influencers, having large set of audiences. The audience may be influenced by the material posted by them and thus even if the content is deleted after it is posted by them, it would reach a large set of audience thereby leading to republishing of the same content/sparking a debate over the content among their followers, which eventually affects the victim. Thereby, one should cautiously use social media before posting any content, as it might adversely affect not only the particular individual but their respective fans also at the same time.

8. Adverting to the facts of the case, prosecution case is based on the video recorded from the phone of the petitioner, which is already stated to be in the custody of the Bombay Police. In such circumstances, the need for custodial interrogation of the petitioner does not arise, particularly when the relevant documents are no longer within his control.

9. No material has been placed on record to indicate that petitioner is a flight risk. He is not required for any custodial investigation. The arrest should not be mechanical/automatic especially when no





necessity if demonstrated for custodial interrogation. The apprehension of the State of non-cooperation cannot override the principle of “*bail not jail*”. The offences are punishable with maximum sentence of 3 years and fine.

10. Petitioner is ready to join the investigation and abide by any condition of bail imposed by the Court. The law leans in favour of liberty.

11. In view of the above and considering that the digital devices being in the custody of the Bombay Police and petitioner’s undertaking to cooperate in the investigation and give his voice sample before the FSL, tilts the balance in favour of the petitioner.

12. Accordingly, in the event of arrest, petitioner shall be released on furnishing a personal bond of Rs. 30,000/- with one surety of the like amount to the satisfaction of the Arresting Officer/Investigating Officer/SHO, subject to the following conditions:

- a. the petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
- b. the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- c. the petitioner shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times;



d. In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/Court concerned by way of an affidavit.

e. the petitioner shall also inform the investigation officer about any change in its address or mobile no(s).

f. the petitioner shall surrender his passport before the investigating officer and shall not leave the country without prior permission of the trial court.

g. The petitioner shall cooperate in providing his voice samples to the investigating agency as and when directed.

h. The petitioner shall surrender his mobile phone as and when received back from the Bombay Police.

13. Before parting, just a word of caution for those using social media. The *internet* has made knowledge easily accessible by intensifying its circulation. With this, however, it has also brought a large audience of every age group. Thus, any content on the *internet* is porous and accessible to a large audience. Every content on the internet must be uploaded with great caution, especially when, the uploader has a large audience and exercises influence in the society. The freedom of 'speech' and 'expression' granted by the Constitution under Article 19 must be exercised within the bounds of the reasonable restrictions it places. When the speech crosses the line into insult, humiliation or incitement, it collides with the right to dignity.



2025:DHC:8962



The free speech should therefore not trample on the dignity and *vice versa*.

14. Nothing stated in this order shall tantamount to be an expression on the merits of the case.

15. The application accordingly stands disposed of.

**RAVINDER DUDEJA, J**

**OCTOBER 09, 2025**  
**SK**



नित्यमेव जयते