



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C.
No. - 2778 of 2020**

Siddharth Varadarajan Anticipatory Bail

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Amrendra Nath Tripathi, Harsh
Vardhan Kediya, Surangama Sharma,
Utkarsh Srivastava

Counsel for Opposite Party(s) :

Court No. - 34

HON'BLE CHANDRA DHARI SINGH, J.

Order on (Clarification of Order) No. IA/1/2026

1. The instant application has been preferred seeking following reliefs:-

"(i) Allow the present application and clarify that conditions 1 and 2 in paragraph no. 59 of the order dated 15.05.2020 passed in the instant case have not come into operation as the trial in Case No. 3672 of 2020, arising out of Case Crime No. 268 of 2020, Police Station Kotwali Ayodhya, District Faizabad/Ayodhya has not yet commenced, and that the said conditions will become operative only after the commencement of trial against the applicant.

(ii) In the alternative, modify the order dated 15.05.2020 passed in the instant case to the extent that conditions 1 and 2 in paragraph 59 of the said order be deleted.

(iii) During the pendency of the adjudication of the present application permit the applicant to travel to New York, USA from 28.09.2026 to 07.10.2026 for the reasons stated in accompanying affidavit."

2. Brief facts of the case are that the applicant is editor of online news portal "The Wire". In the FIR bearing Case Crime No. 268 of 2020,

under Sections 188 & 505(2) I.P.C. at Police Station Kotwali Nagar, District Ayodhya, the allegations were made in the said FIR that the applicant had made a tweet on a website Twitter.com, which was allegedly defamatory in nature. The said FIR was also lodged on the report published by "The Wire" on 31.03.2020 titled as "Covid-19 Cases Spike in Nizamuddin Nehru Stadium in Delhi to Become Quarantine Centre", which was also tweeted by the applicant on 31.03.2020 and 01.04.2020. The anticipatory bail application was filed by the applicant seeking anticipatory bail in connection with the aforesaid Case Crime No. 268 of 2020, Police Station Kotwali Nagar, District Ayodhya before this Court. In the said anticipatory bail application, it was categorically mentioned that the error in the aforesaid report was corrected as soon as it became known of the applicant and the incorrect version was deleted. This Court has allowed the anticipatory bail application and granted anticipatory bail to the applicant vide order dated 15.05.2020 with certain conditions.

3. Ms. Nitya Ramakrishnan, learned Senior Advocate appearing on behalf of the applicant submitted that the instant application is being filed seeking clarification of the order dated 15.05.2020 passed by this Court to the extent that the condition nos. 1 and 2 laid down in the paragraph no. 59 of the aforesaid order come into operation only after the commencement of trial against the applicant. It is also submitted that in the instant application, the applicant prays that he was not required to comply with the condition nos. 1 and 2 as laid down in paragraph no. 59 of the aforesaid anticipatory bail order dated 15.05.2020 as the proceedings before the trial court in Case No. 3672 of 2020, arising out of Case Crime No. 268 of 2020 are still

at the stage of issuance of summons and the trial in the matter has not yet commenced, as charges has not been framed against the applicant till date. Learned Senior Counsel next submitted that the applicant is also praying for permission to travel abroad as per the invitation and scheduled programme, appended as Annexure Nos. A-4 and A-5 to the writ petition.

4. Learned Senior Counsel submitted that the offences, as alleged against the applicant, are either bailable or minor non-bailable offences with the most severe being Section 505(2) IPC, which carries a maximum punishment of up to three years' of imprisonment. It is vehemently submitted that therefore the condition nos. 1 and 2 of paragraph no. 59 of the order dated 15.05.2020 may not be required or necessary in an offence of a minor nature. It is next submitted that the applicant is a respected journalist and founding editor of the news portal "The Wire". It is also submitted that the minor factual inaccuracy in the tweet was promptly clarified and corrected by the applicant himself. Learned Senior Counsel further submitted that the said in-corrected tweet was not intentional and was only *bona-fide* mistake, therefore, the same was promptly removed by the applicant.

5. Learned Senior Advocate, on instructions, submitted that she is not pressing the instant application qua prayer nos. (i) and (ii) at this stage, and may be permitted to argue the same on the next date of hearing. She, upon instructions, only pressing the prayer no. (iii) of the application to grant permission to the applicant to travel abroad at this stage.

6. It is next submitted that, over the course of last six years, the applicant has been freely permitted to travel abroad without any

objection from the State. It is next submitted that the State may also be on understanding that the condition nos. 1 and 2 of the order dated 15.05.2020, would become operative only post the commencement of trial. It is only now, after six years of the grant of anticipatory bail, during the course of which objection was never raised on overseas travel of the applicant. The State/Union has put forth a new understanding of the conditions laid down in the order dated 15.05.2020 and raised an objection before Delhi High Court during the hearing held on 14.05.2026, that the applicant has not complied with the conditions of the anticipatory bail order dated 15.05.2020. Learned Senior Counsel appearing on behalf of the applicant submitted that all the conditions in paragraph no. 59 of the order dated 15.05.2020 were imposed by this Court, in order to ensure the applicant's presence before the court concerned during the trial, when it commences. It is next submitted that the first two conditions of paragraph no. 59 of the order dated 15.05.2020 are intrinsically linked and that both are concerned with preventing the applicant from leaving the country during the trial.

7. Learned Senior Counsel for the applicant submitted that the applicant is a reputed journalist and well-rooted in the society, therefore, there is no flight risk involved. She lastly submitted that, in view of the facts stated above, the prayer no. (iii) may be allowed and the applicant may be permitted to travel abroad, as per the scheduled programme.

8. *Per contra*, learned A.G.A. vehemently opposed the aforesaid application and submitted that, since 2020, several summons have been issued to the applicant till date, but the same could not be

served upon him as he has been evading the summons issued by the Court. It is further submitted that the applicant's failure to deposit the passport as per the conditions mentioned in paragraph no. 59 of the order dated 15.05.2020 amounts to a violation of the said order of this Court. It is next submitted that the applicant's attitude is not cooperative with the court proceedings, as he evades the summoning order, as stated above. Therefore, there is an apprehension that the applicant may not return to India and may evade the process of law. Learned A.G.A. further submitted that the instant application is liable to be rejected merely on two grounds, firstly, non-compliance with the terms and conditions of the order dated 15.05.2020, particularly for not depositing the passport as directed by this Court; and secondly, the apprehension that the applicant may not return to India and may evade the process of law. In view of the aforesaid submissions, it is lastly submitted that the instant application is liable to be dismissed.

9. The applicant, Mr. Siddharth Varadarajan is present in-person before this Court and has been duly identified by Ms. Nitya Ramakrishnan, learned Senior Counsel for the applicant.

10. On a query being made by the Court with regard to non-compliance of the direction contended in the order dated 15.05.2020 for surrendering the passport, the applicant submitted that on account of misinterpretation of the order, the passport could not be surrendered within the time stipulated. He further submitted and clarified that till date, no summon or notice has been served upon him by the court below.

11. The applicant has tendered an unconditional and unqualified apology for non-compliance of the order dated 15.05.2020 due to his

misinterpretation of the conditions of the anticipatory bail order and undertakes that he shall appear before the court concerned on 12.10.2026, which is the next date fixed in the case, immediately after returning from abroad. He further undertakes to surrender his passport on the said date before this Court or the court concerned.

12. The unconditional apology tendered by the applicant is taken on record. Considering the bona-fide explanation offered and an undertaking given by the applicant, the apology is accepted. The applicant is, however, cautioned to be more careful in future and to strictly abide by all the directions issued by this Court.

13. Heard Ms. Nitya Ramakrishnan, learned Senior Advocate assisted by Ms. Stuti Rai, learned counsel for the applicant, Mr. Ravish Chandra Mishra, learned Additional Government Advocate for the State, and perused the record.

14. In the present case, learned counsel for the applicant is not pressing the application qua prayer nos. (i) and (ii), at this stage and only pressing the prayer no. (iii), seeking permission to the applicant to travel abroad.

15. At this juncture, this Court is only adjudicating the submissions and counter-submissions advanced by learned counsel appearing for the respective parties with regard to prayer no. (iii) seeking permission to go to abroad. It is an admitted fact that the applicant has travelled abroad several times and also returned to India. Therefore, I do not agree with the submissions of the learned A.G.A. that there is any flight risk or any reason for apprehension that the applicant may not return to India, after travelling abroad as per the

scheduled programme.

16. This Court has also perused the invitation and scheduled programme. The applicant is required to travel to New York, USA from 28.09.2026 to 07.10.2026. It is an admitted fact that, despite the lapse of six years, the trial has not yet commenced and the State has also not seriously taken steps for ensuring the presence of the applicant before the concerned court. Learned A.G.A. has failed to assist the Court in this regard. This Court has also considered the nature of the alleged offences, committed by the applicant, most of which are bailable offences and for the offence under Section 505(2) IPC, the same carries a maximum punishment of up to three years of imprisonment. I have also taken on record that the State, despite given opportunity to file counter affidavit or reply on the application, has failed to file the same. Learned A.G.A. has not able to give answer to the query made by this Court, during the proceedings.

17. This Court has also considered the fact that the applicant, present in Court, has tendered unconditional apology and has also given an undertaking to appear before the court concerned. The Court is of the view that, in the interest of justice, the apology deserves to be accepted. The delay/non-compliance for surrendering the passport, in terms of order dated 15.05.2020, is accordingly condoned.

18. It is a settled law that merely because a person is an accused, he cannot be deprived of his right to travel abroad. The Court has to strike a balance between personal liberty and interest of investigation/trial. In the case of **Parvez Noordin Lokhandwalla vs. State of Maharashtra**, 2020 (10) SCC 77, the Supreme Court held that the permission to travel abroad can be granted subject to

appropriate conditions ensuring presence of accused.

19. In the instant case, the applicant is on an anticipatory bail. The reason of travel appears to be genuine and supported by the documents. There is no material on record to show that applicant will abscond, if permitted to travel abroad. The trial has not yet commenced in spite of the charge-sheet filed in the year 2020.

20. Considering the facts and circumstances, I deem it appropriate to grant permission to the applicant to travel abroad, subject to following conditions:-

(i) The applicant is permitted to travel to New York, USA from 28.09.2026 to 07.10.2026.

(ii) The applicant shall file an undertaking, by way of an affidavit, before the Senior Registrar of this Court/court concerned that he shall return to India on or before 09.10.2026 and shall appear before the trial court on 12.10.2026.

(iii) The applicant shall furnish his details itinerary, place of stay at abroad, contact number and e-mail ID before this Court or the court concerned.

(iv) The applicant shall not tamper with the evidence and shall not try to influence the witnesses during the stay at abroad.

(v) The applicant shall deposit his passport before the Senior Registrar of this Court/court concerned within a week of his return to India.

(vi) In case applicant fails to return India within stipulated period, the State shall be at liberty to take coercive steps.

(vii) The concerned passport authority/Bureau of Immigration shall permit the applicant to travel abroad for the aforesaid period, on production of certified copy of this order and shall also not obstruct on the ground of pendency of trial in Case No. 3672 of 2020, arising out of Case Crime No. 268 of 2020, Police Station Kotwali Ayodhya, District Faizabad/Ayodhya.

21. With the aforesaid directions, the application qua prayer no. (iii), stands ***disposed of***.

22. List this case on **19.11.2026** insofar as prayer nos. (i) and (ii), seeking clarification and modification of the order dated 15.05.2020 are concerned.

23. Senior Registrar of this Court is directed to communicate this order forthwith to the court concerned, Superintendent of Police, Faizabad/Ayodhya and Bureau of Immigration, Ministry of Home Affairs for necessary information.

(Chandra Dhari Singh,J.)

September 23, 2026
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