

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 8446 of 2025**

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RAJESH THANAJI SONI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

DHRUVIK K PATEL(7769) for the petitioner(s) No. 1

MR ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 20/06/2025****ORAL ORDER**

1) By way of present petition, the petitioner has prayed for quashing of **FIR being C. R. No. 11201018250021 of 2025 registered with CID Cyber Crime Police Station, Dist. Gandhinagar**, for the offence under Sections 152 and 353(1)(a) of the BNS and other consequential proceedings, if any, arising therefrom.

2) Heard Mr. Hriday Buch, learned counsel assisted by Mr. Dhruvik Patel, learned counsel for the petitioner and Mr. Rohan Shah, Id. APP for the respondent State.

3) It is the case of the prosecution that while Police Inspector of Cyber Crime Cell, monitoring various social media platforms, he came across a Facebook page under the name "Rajesh Soni – Delegate AICC – General Secretary, Gujarat Congress, which according to the complainant, was found to have published multiple posts that were allegedly misleading and anti-social. It is further alleged that, one of the posts questioned the credibility and commitment of the Indian Army during a military operation titled as "Operation Sindoor", which according to the complainant, could potentially shake the faith of the general public in the

Armed forces. In this regard, the FIR has been lodged against the accused including the present petitioner.

4) It is submitted on behalf of the petitioner that the petitioner has been falsely implicated in the alleged offence, and the FIR has been registered solely with the intent to harass him, driven by malafide intentions. The petitioner has not indulged in any illegal activity that falls within the purview of Sections 152 and 353(1)(A) of the Bharatiya Nyaya Sanhita (BNS). The petitioner merely reposted content that he had received from another source. There was no malafide intention on his part, and even otherwise, the essential ingredients of the offences under Sections 152 and 353 (1)(a) of the BNS are not satisfied. No statement was made by the petitioner that amounts to public mischief, or that incites or attempts to incite secession, armed rebellion, or any subversive activity. No any material which suggest any violation, disruption or institutional disobedience, nor any direct or indirect act which interfere with the military operations or public servants' duties. It is further submitted that, no any adverse impact subsequent to the impugned posts been noticed. Hence, based on alleged false posts or rumor, the complainant has filed the impugned FIR to win the cheaper popularity. It is not a case where due to the posts made by the petitioner affect the dedication of armed forces or any other government servant/s. The petitioner has neither waged war nor attempted to breach the peace of the country. Prima facie, it appears that at this stage, the comment made by the petitioner does not fall within the scope of the alleged offences. It is further submitted that, the petitioner was already arrested and produced before the Magistrate concerned, but no remand was sought for as per the say of the accused. Even other videos and parody in writing are also available on the social media platforms itself. Hence, registration of FIR is nothing, but a gross abuse of the process of law. Therefore, he

requested to stay further proceedings of impugned FIR.

5) Per contra, learned APP appearing for the respondent State has opposed the present application and contended that it is an undisputed fact that the petitioner has made posts on social media which are misleading and anti-social in nature. The petitioner has posted several messages on social media platforms that involve the dissemination and circulation of false statements, rumors, or reports, particularly those intended to cause public unrest, spread fear, or incite offences against the State or public tranquility. Therefore, prima facie, the offences under Sections 152 and 353(1)(a) of the Bharatiya Nyaya Sanhita (BNS) are attracted.

Further, learned APP has further submitted that, still investigation is going on and therefore, has prayed that no interim relief be granted in favour of the petitioner and let the offence in question be investigated.

6) At the outset, it is appropriate to refer Sections 152 and 353(1)(a) of BNS. The same are reproduced hereinbelow :-

152 – Acts endangering sovereignty unity and integrity of India :-

Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine."

Explanation :- Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section.

353- Statements conducing to public mischief -

(1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means,

(a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard

or fail in his duty as such;

Explanation :- It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, false information, rumour or report, has reasonable grounds for believing that such statement, false information, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.

7) Having regard to the submissions made by learned counsel on both sides, perusing the legal provisions and allegations levelled in the complaint, it appears that no other proceedings including the provisions of Information Technology Act being invoked. Though the complaint is filed by Cyber Crime Cell, CID Crime, and during monitoring on social media platforms, alleged posts came to be noticed during Cyber patrolling and impugned complaint has been filed. It further appears that in the present case, although there is a visible representation and electronic comments, there is no material to suggest that the posts made by the petitioner amount to inciting or attempting to incite secession, armed rebellion, subversive activities, or encourage feelings of separatism, or endanger the sovereignty, unity, or integrity of India. Further, perusing the explanation, the said comments do not amount to expressing disapprobation of the measures, or administrative or other action of the Government. Considering the above as well as in view of the law laid down by the Hon'ble Supreme Court in ***Imran Pratap Gadhi vs. State of Gujarat***, reported in 2025 SCC OnLine (SC) 678, it is required that a preliminary inquiry be conducted before the registration of an FIR. There is no material on record which attracts the alleged offence. However, without verifying these facts or forming the requisite satisfaction, the impugned FIR has been registered. Further, learned APP is unable to point out any consequences or any violation, disruption or institutional disobedience, nor any direct or indirect act which interfere

with the military operations or public servants' duties, which lead to mutiny.

8) In view of the above, **Rule**, returnable on **12.08.2025**. Ld. APP waives service of Rule for the respondent State. Meanwhile, **no coercive steps be taken against the petitioner qua the offence under Sections 152 and 353(1)(a) of BNS**. However, let investigation for the offence in question be continued. The petitioner shall cooperate with the investigation. Direct Service is permitted.

(HASMUKH D. SUTHAR,J)

SUCHIT