

26th January, 2021

Letter Petition

**With reference to Misc. Criminal Case (MCRC) 2206 of 2021
(Indore Bench of the High Court of Madhya Pradesh)**

In the matter of Munnawar Faruqui vs. State of MP

**To His Lordship The Hon'ble Chief Justice of
The High Court of Madhya Pradesh**

The humble Letter Petition of the Petitioner most respectfully submits:

1. By way of this present Letter Petition, the Petitioner Saket S Gokhale most humbly craves the kind intervention of Your Lordship in the matter of Munnawar Faruqui vs. State of MP (MCRC no. 2206 of 2021) at the Indore Bench of the Hon'ble High Court of Madhya Pradesh
2. That the Petitioner is a former journalist who now works as a social activist and is a public spirited individual. The petitioner has been involved in several issues concerning public interest in his personal capacity and has espoused various causes for better administration of justice. The petitioner has raised his voice and worked on numerous issues relating to voter rights, human rights, & transparency. The Petitioner is a resident of [REDACTED]
[REDACTED]
[REDACTED] A true copy of AADHAR of Petitioner is annexed hereto & marked as **ANNEXURE P-1**.
3. That the Petitioner has not been involved in any other civil or criminal or revenue litigation which could have a legal nexus with the issues involved in the present petition nor does the Petitioner have any personal gain in this present matter which is entirely in public interest for fair administration of justice.
4. That the Petitioner declares that he has no personal gain, no private motive, and no oblique reason in filing the present

5. That before dilating on the grievances of the Petitioner, the Petitioner craves the permission of Your Hon'ble Lordship to place on record the brief factual concepts which are essential for the just adjudication of this letter petition.

(a) On 02/01/2021, stand-up comedian Munnawar Faruqui along with Edwin Anthony, Nalin Yadav, Prakhar Vyas, Priyam Vyas, and Sadakat Khan were arrested by the Indore Police for allegedly making "indecent remarks" against Hindu deities and against Union Home Minister Amit Shah during an event at a cafe in the 56 Dukan area of Indore

(b) The accused were arrested under Secs 295-A, 269, 298, 188, and 34 of the Indian Penal Code, 1870 for the alleged offense committed at the event

(c) On 05/01/2021, the District and Sessions court rejected the bail applications of the accused following which they approached the Indore Bench of the Hon'ble High Court of Madhya Pradesh in the matters of MCRC no. 2206/2021, MCRC 2213/2021, MCRC 3345/2021, and MCRC 4562/2021

(d) Now, on 04/01/2021, the Station House Officer of Tukojiganj Police Station Sh. Kamlesh Sharma told media outlet India Today that the police have examined two video footages given by the complainant. Nothing has been found to be malicious in the same. The SHO also added that "a pen drive has been given by the complainant and the same is being examined. But we (the police) can safely say that nothing incriminating was found in the two sets of video footages that were initially given by the complainant." A true copy of the news report from India Today dated 04/01/2021 is annexed herewith and marked as **ANNEXURE P-2**

(e) Again, during the hearing of the above-mentioned matters at the Indore Bench of the Hon'ble High Court of Madhya Pradesh, the Indore Police failed to produce the case diary in court and submitted that they had no documentary evidence to back the charges made against the accused of hurting religious sentiments. A true copy of a

media report covering the proceedings in the Hon'ble High Court of Madhya Pradesh on 15/01/2021 is annexed herewith and marked as **ANNEXURE P-3**

(f) Now, on 25/01/2021, the bail applications came up for hearing at the Indore Bench of the Hon'ble High Court of Madhya Pradesh in front of a single-judge bench of Justice Rohit Arya. The proceedings of 25/01/2021 were reported by renowned legal news outlet LiveLaw. A true copy of the report by LiveLaw dated 25/01/2021 reporting the court proceedings is annexed herewith and marked as **ANNEXURE P-4**.

(g) During the proceedings, Justice Rohit Arya made oral observations at the outset and said “But why you take undue advantage of other's religious sentiments and emotions. What is wrong with your mindset? How can you do this for the purpose of your business?”

It is respectfully submitted here that these observations made by the Hon'ble Justice Rohit Arya carry a presumption of guilt on part of the accused during a bail application hearing where the merits of the case haven't yet been settled, a chargesheet hasn't been filed by the prosecution, and neither has a trial begun against the accused.

(h) In the course of the proceedings, Justice Rohit Arya also observed that the bench was disinclined to entertain the bail application. May it be respectfully submitted that the Hon'ble Justice Rohit Arya did not cite any reasons as to why the bench was disinclined to entertain the bail application. In the event that the bench believes it might not be able to adjudicate fairly in the matter for whatever reasons, the Hon'ble Justice should've recused himself from hearing the bail applications.

(i) In the bail applications, there are also a few intervenors who have objected to the granting of bail. One of the lawyers for the intervenors submitted that “The accused Munawar Faruqui has posted several previous video which was circulated on social media. These remarks were made 18 months ago. He repeated the same remarks on three different occasions i.e. comedy shows. This has led to other comedians

making such remarks about Hindu Gods. This is happening with 70% of the comedians.”

It is, again, respectfully submitted that none of these submissions made by the lawyers of the intervenors pertain to the alleged offense that the accused have been charged with for the comedy event that happened on 01/01/2021. These submissions are ad hominem and generic and have no nexus or connection with the specific incident of 01/01/2021 that the accused have been arrested for.

(j) Despite this, the Hon’ble Justice Rohit Arya observed that “Such people must not be spared. I will reserve the order on merits”.

(k) It is submitted that, from the view of the general public observing these proceedings, it is shocking and unnerving that the Hon’ble Justice Rohit Arya, while hearing the bail applications has not only presumed guilt on part of the accused through his observations but has also said “such people must not be spared” even while the accused are presumed innocent unless proven guilty. At the stage of bail application hearing, whether the accused “must or must not be spared” is not even a point of consideration as these are not trial proceedings. By referring to the accused as “such persons” and by observing that “they must not be spared”, the Hon’ble Justice Rohit Arya has not given an impression of fairness or impartiality on part of the Bench.

6. These observations combined with the Bench expressing its disinclination to entertain the bail applications does create a valid apprehension amongst the general public that the accused are not getting a fair non-prejudiced hearing in their bail applications.
7. Moreover, the repeated submissions by the Indore Police about the lack of prima facie evidence supporting the charges against the accused despite their rush to arrest them based on a complaint by a politically-inclined complainant also raises questions on whether the Indore Police is acting under political pressure
8. In these present circumstances, the Petitioner craves and prays for the kind intervention of Your Lordship in assigning these bail applications

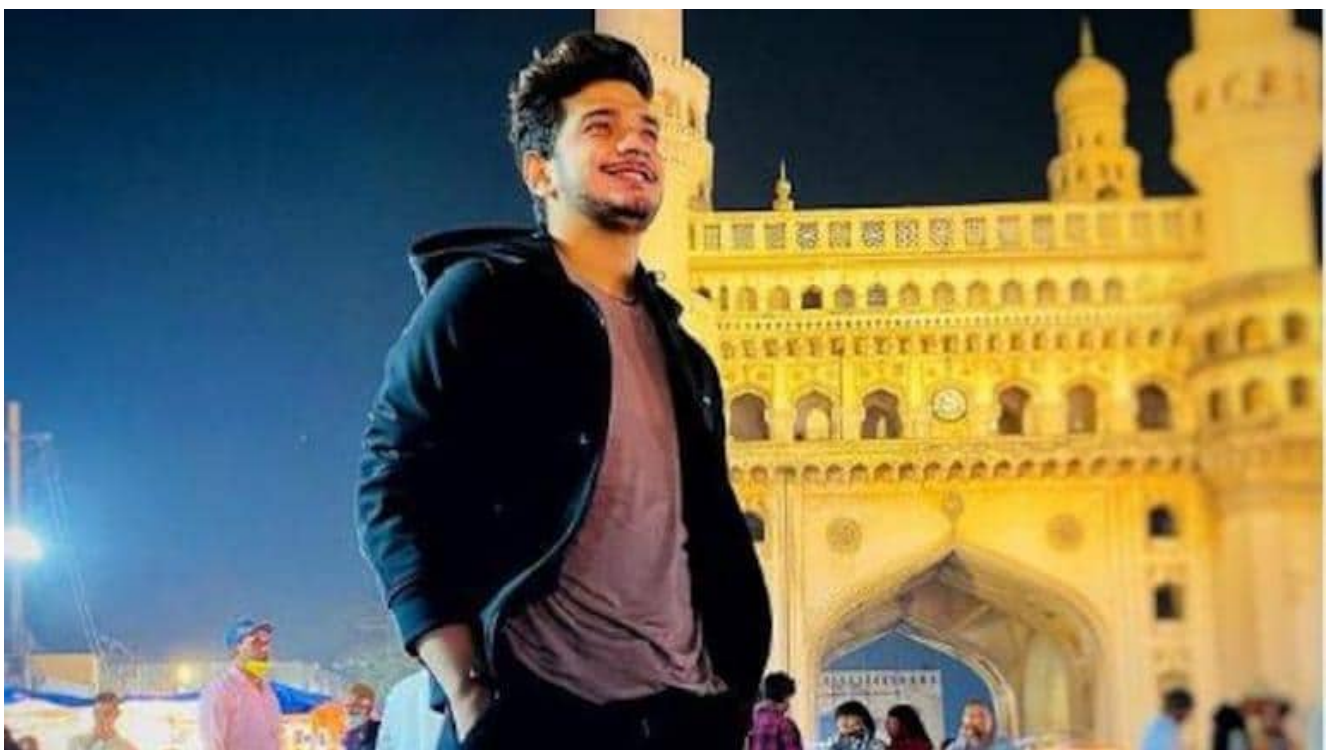
No video proof of comedian Munawar Faruqui insulting Hindu deities, say police days after arrest

Two days after comedian Munawar Faruqui and four others were held after it was alleged that "indecent" remarks about Hindu deities were made during a show in Indore, police have said no video evidence has been found so far showing Faruqui making such remarks.

[Hemender Sharma](#)

True copy

Just Copy



Days after stand-up comedian Munawar Faruqui was arrested along with four others on allegations of passing indecent remarks about Hindu deities and Union minister Amit Shah, the Indore police have said they have found no evidence so far against the accused.

The [accused, including Munawar Faruqui, were arrested on January 2](#) on charges of deliberately and maliciously trying to outrage religious feelings at an event in Indore.

As senior police official told India Today on Monday that they found nothing malicious in video footage of the show in Indore.

Speaking to India Today TV, Tukojiang police station SHO Kamlesh Sharma said, "We have examined two video footages given by the complainant. Nothing has been found to be malicious in the same."

The SHO added: "Now a pen drive has been given by the complainant and the same is being examined. But we can safely say that nothing incriminating was found in the two sets of video footages that were initially given by the complainant."

Indore police arrested Faruqui and four others and charged them under sections 295 A, 298, 269 and 34 of the Indian Penal Code. All the five accused were presented in the Indore district court on January 2 and were sent to judicial custody till January 13.

The complaint against the five was made by Ekalavya Singh Gaur, son of Indore BJP MLA Malini Gaur. Eklavya Singh Gaur and his associates also manhandled the five arrested while they were being escorted to the police station.

Superintendent of Police, BPS Parihar, meanwhile, claimed that Faruqui and his associates were arrested as they did not have permission to organise the event in which social distancing norms were also violated.

Also Read | [Comedian Munawar Faruqui, 4 others held for 'indecent' remarks on Hindu deities, Amit Shah](#)

Police Say No Evidence

Against Munawar Faruqui, Yet Press for Bail Plea Rejection

While failing to produce a case diary against the comedian and five other accused in the case, the police told Madhya Pradesh high court that granting them bail could result in "law and order problems".

True copy



New Delhi: The case against Munawar Faruqui, the comedian who was [arrested](#) for allegedly making objectionable remarks against Hindu deities a fortnight ago, took a Kafkaesque turn when the Indore police insisted that his bail plea should be rejected and, in the same breath, told the court that it had no evidence regarding the allegations against him.

At Faruqui's bail hearing before the Indore bench of the Madhya Pradesh high court on Friday, the Indore police failed to produce the case diary and added that it had no evidence whatsoever to back the allegations made against the comedian and five others who have been arrested in the same case.

All six – Faruqui, Nalin Yadav, Prakhar Vyas, Priyam Vyas, 11
Edwin Anthony, Sadakat Khan – were arrested on January
1, 2020, at a show in Indore on a complaint by Eklavya
Gaud, the son of BJP MLA Malini Gaud, who thought
Faruqui and his teammates made objectionable remarks
against Hindu deities and “hurt religious sentiment”.

Ever since the incident shot into the limelight, many
observers have already pointed out the arbitrary nature of
all the arrests made in the case. “Of the six, one is the
brother of the show’s organiser who was in the audience,
another a friend of Faruqui’s who had nothing to do with
the event, and a third whose only family is a minor brother
running around for him now,” *Indian Express* [reported](#).

The 24-year-old Prakhar had contacted Faruqui for the
show. Faruqui, who had flown down from Mumbai, was
supposed to do the main act while Prakhar and Yadav,
both upcoming comedians, were to do short opening acts.
Priyam, Prakhar’s younger brother, was only attending the
show. Sadakat had come to meet Faruqui in custody when
he was arrested too.

“Not much is known about Anthony, the first accused in
the case”, the daily reported, except that he is an Indore
resident and was the “event coordinator” for the show.

**[Also read: If a Comedian Can Be Arrested for a Remark
He Didn’t Make, Is the Joke on Us?](#)**

At the Indore sessions court hearing on January 6, the

Tukoganj station police objected to Prakhar and Priyam's bail pleas, saying Prakhar had made all the arrangements for the show. The Indore sessions court had then rejected all bail petitions of those arrested. A judicial magistrate first class on January 13 had extended the judicial custody of all the accused except Sadakat for another two weeks. 12

The bail plea at the high court on Friday was adjourned because of the "non-availability of the case diary" and will be taken up early next week when the police are expected to produce the case diary.

Even as the police failed to produce a case diary, it has been insisting that all of them should be kept in custody to prevent possible "law and order problems" in Ujjain and Indore. Faruqui has been booked under Sections 295A (outraging religious feelings) and 269 (unlawful or negligent act likely to spread the infection of any disease dangerous to life) of the Indian Penal Code, among other charges.

Faruqui and Yadav's lawyer, Anshuman Shrivastav, told the *Indian Express* that senior Supreme Court lawyer and Rajya Sabha member Vivek Tankha appeared on behalf of the bail applicants and that he requested the court to reschedule the hearing for later in the day as the Tukoganj Police Station (where the case is registered) is across the road from the high court premises, and the police could have been asked to get the diary.

“However, it (the hearing) was adjourned,” he said, adding that such requests of adjournments by the police were tactics to harass his clients. 13

“The criminal law does not work on assumptions, but their bail has been denied on an assumption that it will lead to law and order problems and not on any technical or legal grounds,” Shrivastav said.

He said the FIR filed by Gaud, also the convenor of Hindu Rakshak Sanghatan, had not specified the comments allegedly made by Faruqui, and insisted that at least the police could have verified the claims before making the arrests. He added that alleged remarks by Faruqui against home minister Amit Shah and on Godhra riots were based on a video shot about four years ago, and not from the Indore show.

The 17-year-old Nalin’s younger brother said Nalin hadn’t even presented his act at the Indore show when he was arrested. “When I went to visit Nalin in jail, he was worried about my safety as there are just the two of us. He kept repeating that he did not crack any jokes on religion,” he said. The brothers lost their mother two months ago.

Faruqui’s tour manager and stand-up producer, Vishesh Arora, said Faruqui had done this particular comic routine 25 times since November 2020 and was supposed to do 20 more across different cities after Indore. He added that Faruqui has been getting threats online. A cousin of

Faruqui too said that the family had been getting online threats since 2020 after he posted a comedy routine titled "Dawood, Yamraaj & Aurat". He said Faruqui's sisters also got rape threats. WWW.LIVELAW.IN 14

Town Inspector of Tukoganj Police Station Kamlesh Sharma had earlier confirmed to *Indian Express* the police had no evidence against Faruqui directly and that he had been booked as an organiser.

"There's no evidence against him for insulting Hindu deities or Union Minister Amit Shah," he said. He also added that the two videos submitted by Gaud, the complainant, were of another comedian. Yet, the police have been wanting to keep all the accused in custody.

'Such People Must Not Be Spared': Madhya Pradesh High Court Reserves Orders On Munawar Faruqui's Bail Plea

True copy



[Nupur Thapliyal](#) 25 Jan 2021 3:36 PM

The Madhya Pradesh High Court (Indore Bench) on Monday reserved orders on the bail application of comedian Munawar Faruqui, who was arrested by Indore police on January 2 in a case for alleged hurting of religious sentiments.

"But why you take undue advantage of other's religious sentiments and emotions. What is wrong with your mindset? How can you do this for the purpose of your business?", a single bench of **Justice Rohit Arya** observed at the outset.

Also Read - [Farmers Protests : Why 'Exorbitant' Personal Bonds Sought From Farmers With Tractors? Allahabad High Court Asks UP Authorities](#)

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The bench, expressing disinclination to entertain the application, asked **Senior Advocate Vivek Tankha** (appearing for Faruqui), if he wanted to withdraw the bail application.

"He has committed no offence in the matter your lordships. Bail should be granted", Tankha submitted.

Few intervenors, opposing the bail application, told the bench that the comedian has made highly objectionable statements against Hindu gods and deities.

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FOR THE DEMO CLASS  **9614994939**  **@Jurisedge**

"The accused Munawar Faruqui has posted several previous video which was circulated on social media. These remarks were made 18 months ago. He repeated the same remarks on three different occasions i.e. comedy shows. This has led to other comedians making such remarks about Hindu Gods. This is happening with 70% of the comedians", one lawyer submitted.

When the bench asked if there are other lawyers opposing the bail plea, another lawyer alleged that Faruqui made other objectionable statements against Lord Ram and Sita.

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"Such people must not be spared. I will reserve the order on merits", Justice Rohit Arya said.

The judge asked other counsels objecting to the bail application to file their concerned documents and supported evidences.

The court also reserved orders on the bail application of Nalin Yadav, a co-accused arrested as a co-performer of Faruqui.

Also Read - [National Commission For Women To Move Supreme Court Challenging Bombay High Court's 'Skin To Skin Judgment' In The POCSO Case](#)

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Last week, the HC had adjourned the bail hearing as police didn't produce the case diary.

On January 5, a Sessions Court in Indore had dismissed the bail applications of the accused.

Faruqui, a resident of Gujarat, was arrested on January 2 along with four others for allegedly making indecent remarks against Hindu deities and against Union Home Minister Amit Shah during a show held at a cafe in 56 Dukan area of Indore on January 1.

The complaint was filed against them by Eklavya Singh Gaur (36), son of local BJP legislator Malini Laxman Singh Gaur.

The other arrested persons were identified as Edwin

Police had booked five accused under sections 295-A (deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs), section 269 (unlawful or negligent act likely to spread the infection of any disease dangerous to life) and other provisions of the Indian Penal Code (IPC).