



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Eighth day of June Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.9768 of 2015

WEB COPY

- 1 SENTHAMIZHAN.SEEMAN
- 2 SETHU.MANOCHARAN
- 3 DURAIMURUGAN
- 4 SEETHALAKSHMI
- 5 KOUSALYA
- 6 VIJAYALAKSHMI
- 7 ILAKKIYA
- 8 GOWRI
- 9 KUMUTHAVALLI
- 10 DR.ILAVANJI
- 11 AMUTHA NAMBI
- 12 R.PRABHU
- 13 MARATHAMIL VENTHAN
- 14 SUDALAIRASU @ SUDALAIRAJAN
- 15 ARUN @ ARUN KUMAR
- 16 IDUMBAVANAM KARIKALATHAN @ T.KARTHIK
- 17 SENTHILNATHAN CHE-GUEVERA @ SENTHILNATHAN
- 18 THAMILINIAN
- 19 MATHIVANAN
- 20 ILANTHAMILAN SHEIK @ SHEIK
- 21 JEGADEESA PANDIAN @ A.JEGADEESAN
- 22 P.BALAMURALIVARMAN
- 23 MANI SENTHIL @ M.SENTHIL KUMAR
- 24 DHURUVAN SELVAMANI @ N.SATHISH KUMAR
- 25 T.SEEMAN
- 26 I.HUMAYUN
- 27 S.RAJAN
- 28 HARAPPA TAMILAN
- 29 THARANGAI PANNEERSELVAM @ PANNEERSELVAM
- 30 KARVANNAN @ HARIRAMAKRISHNAN
- 31 PAUL HIYUMAN @ DR.PAUL NEWMAN
- 32 VETRIKUMARAN
- 33 KOTTAIKUMAR
- 34 ARIVUCHELVAN @ RAJIV GANDHI
- 35 PERAVOORANI THILIBAN @ BALATHANDAYUTHAM
- 36 SAHUL HAMEED
- 37 THADA CHANDRASEKAR @ N.CHANDRASEKARAN
- 38 A.NALLADURAI ... PETITIONERS/ACCUSED NO.1 TO 6,8 TO 40

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
EDAMALAIPATTI PUDHUR POLICE STATION,
TRICHY DIST.
IN CRIME NO. 209 OF 2015

... RESPONDENT/COMPLAINANT

For Petitioner : MR.N.CHANDRASEKAR FOR M/S.G.BALAJI Advocate
<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)



PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as A1 to A6, A8 to A40 apprehend arrest at the hands of the respondent police for the alleged offences punishable under sections 124(A), 143, 153(A) and 188 of IPC, in Crime No.209 of 2015 on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that on 24.05.2015, the accused have made speech in support of a banned organisation and also propagated against the Government with an intention to promote enmity between two groups of religion and race.

3.Mr.N.Chandrasekar, learned counsel appearing for the petitioners submitted that being a member of a banned organisation, speeches in support of the organisation without an intention to incite violence, is not an offence and further freedom of speech is a fundamental right guaranteed under Article 19(1)(a) of the Constitution of India. The learned counsel has relied upon the judgment reported in **(2011)3 SCC 380** in the case of **Indra Das vs. State of Assam**, in support of his contention.

4.Per contra, the learned Government Advocate (Criminal side) appearing for the respondent, opposed the application stating that the petitioners have made speeches in support of a banned organisation and also violated the permission for conducting a meeting.

5.In **(2011)3 SCC 380** in the case of **Indras Das vs. State of Assam**, the Hon'ble Apex Court has held as follows:-

"26.Section 124-A which was enacted in 1870 was subsequently amended on several occasions. This Court observed in Kedar Nath case [AIR 1962 SC 955: (1962) 2 CRI 1j 103) that now that we have a Constitution having fundamental rights all statutory provisions including Section 124-A IPC have to be read in a manner so as to make them in conformity with the fundamental rights. Although, according to the literal rule of interpretation we have to go by the plain and simple language of a provision while construing, it, we may have to depart from the plain meaning if such plain meaning makes the provision unconstitutional."

6.Further, in the judgment reported in **(2008)4 SCC 720** in the case of **A.P. vs. P.Laxmi Devi**, the Hon'ble Apex court has held that mere member of a banned organisation will not make a person criminal, unless he resorts or incites people to violence or creates public disorder by violence.

7.Considering the facts and circumstances of the case and also the <https://hqservicerecords.gov.in/hqservicerecords/> based down by the Hon'ble Apex Court referred to supra, this court is inclined to grant anticipatory bail to the petitioners with certain conditions.



8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.2, Trichy and on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two common sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police for two consecutive Saturday and Sunday i.e., on 20.06.2015, 21.06.2015, 27.06.2015 and 28.06.2015 at 10.00. a.m and thereafter as and when required for interrogation. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

9. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
08/06/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
TRICHY.
- 2 DO-THRO' THE CHIEF JUDICIAL MAGISTRATE
TRICHY.
- 3 THE INSPECTOR OF POLICE
EDAMALAIPATTI PUDHUR POLICE STATION, TRICHY DIST.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.BALAJI Advocate SR.No.28756

ORDER
IN
CRL OP(MD) No.9768 of 2015
Date :08/06/2015

PA/PPS/11.06.2015/3P/6C