



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

Friday, the Twentieth day of October Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.11325 of 2017

R.SENDHIL GANESAN

... PETITIONER/SOLE ACCUSED

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
VIDEO PIRACY WING, DINDUGUL,
DINDUGUL DISTRICT

... RESPONDENT/COMPLAINANT

For Petitioner : SELVI A.HAFIZA, Advocate

For Respondent : Mr.K.ANBARASAN, Government Advocate (Crl.side)

For Intervenor : Mr.T.SELVAM, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Video Piracy Act and under Sections 3(1)(A), 8(A), r/w 15(1) of Tamil Nadu Exhibition of Films on Television Screen Through Video Cassette Recorders and Through Cable Television Network (Regulations) Act, 1984, in Crime No.299 of 2017, seeks anticipatory bail.

2. The case of the prosecution is that the Tahsildar made a complaint before the respondent police that the petitioner is operating a cable T.V. Net work without obtaining license from the Tamil Nadu Cable Television Networks (Regulations) Act, 1984. Therefore the respondent police registered a case against the petitioner in Crime No.299 of 2017.

3.The learned counsel for the petitioner submitted that already the petitioner obtained license from the post-master under the Cable Television Networks (Regulation) Act, 1995 and the post-master granted license from 06.01.2016 to 05.01.2018 under the registration No.384. Subsequently, the petitioner paid Rs.1,000/- to Tamil Nadu Arasu Cable TV Corporation on 07.09.2017 and the Tamil Nadu Arasu Cable TV Corporation also given LCO No.48678 to the petitioner. He further submitted that the FIR itself shows that the petitioner is authorized to run Cable Network Service from Central Authority as well as Arasu Cable TV Corporation. Hence, he prays

for anticipatory bail.

4. The learned counsel for the intervenor submitted that the petitioner is running a Cable TV Services without any license from appropriate authority and he making loss to the intervenor. However he made it clear that he has not filed the complaint before the respondent police.

5. The learned Government Advocate (Crl.Side) appearing for the State would submit that there is no requirement to obtain license from the State authority. However the State Authorities have right to invoke the provisions, if the petitioner violated any rules or running Cable TV without any payment.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. Section 4 of the Cable Television Networks (Regulation) Act, 1995 reads as follows:

- (1) Any person who is desirous of operating or is operating a cable television network may apply for registration or renewal of registration, as a cable operator to the registering authority.
- (2) The cable operator shall fulfill such eligibility criteria and conditions as may be prescribed and different eligibility criteria may be prescribed for different categories of cable operator.
- (3) On and from the date of issue of notification under Section 4-A, no new registration in a State, City, Town or area notified under that Section shall be granted to any cable operator who does not undertake to transmit or re-transmit channels in an encrypted form through a digital addressable system.
- (4) An application under sub-section(1) shall be made in such form and be accompanied with such documents and fees as may be prescribed.
- (5) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information prescribed under sub-section(4) and on being so satisfied, register the applicant as a cable operator and grant him a certificate of registration or renew its registration, as the case may be, subject to such terms and conditions as may be prescribed under sub-section(6):

Provided that the registering authority may, if it is satisfied that the applicant does not fulfill the eligibility criteria and conditions prescribed under sub-section(2) or the application is not accompanied with necessary documents or fees prescribed under sub-



section(4), and for reasons to be recorded in writing, by order, refuse to grant its registration or renewal and communicate the same to the applicant:

Provided further that the applicant may prefer an appeal against the order of the registering authority refusing grant or renewal of registration to the Central Government.

(6) Without prejudice to the compliance of eligibility criteria for registration of cable operator, the Central Government may prescribe, having regard to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign State, Public order, decency or morality, foreign relation or contempt of Court, defamation or incitement to an offence, such terms and conditions of registration including additional criteria or conditions to be fulfilled by the cable operator.

(7) The Central Government may suspend or revoke the registration granted under sub-section(5) if the cable operator violates one or more of the terms and conditions of such registration.

Provided that no such order of suspension or revocation shall be made without giving a reasonable opportunity of being heard to the cable operator.

Section 2(h) of the Cable Television Networks(Regulation)Act, 1995 reads thus:

"registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Act (With such local limits of jurisdiction as may be determined by that Government:)

Since the Central Act occupies the field regarding the Cable T.V. Net work, the complaint under State Act does not arise.

8.Considering the facts and circumstances of the case, I am inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Kodaikanal, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

<https://hcservices.ecourts.gov.in/hcservices/>
(1) This Court make it clear that if the petitioner has not paid any subscription amount to any other MSO(Multi System



Operator), if any complaint made, the respondent police may take appropriate action in accordance with law. This order will not stand on the way to any MSO for taking appropriate action, if the petitioner has not paid the amount or subscription to the MSO (Multi System Operator).

(ii) the petitioner shall appear before the respondent police as and when required for interrogation;

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not commit any offence while on bail;

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law and the anticipatory bail granted stands cancelled automatically.

sd/-
20/10/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE
KODAIKANAL
- 2 -do- thro' THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT
- 3 THE INSPECTOR OF POLICE
VIDEO PIRACY WING, DINDUGUL, DINDUGUL DISTRICT
- 4 THE THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER
IN
CRL OP (MD) No.11325 of 2017
Date :20/10/2017

vsa/msa
SH/CM-MSA/SAR-4:31.10.2017:4p/5C