



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

Thursday, the Fifth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.9110 of 2017

KUTHBUDEEN

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KULASEKARAPATTINAM POLICE STATION,
TUTICORIN DISTRICT.
CRIME NO. 158/2017

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.KA.RAAMA KRISHNAN Advocate
For Respondent : MR.T.MOHAN Additional Public Prosecutor
For Intervener : M/S.KARTHIKEYA VENKITACHALAPATHY Advocate
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

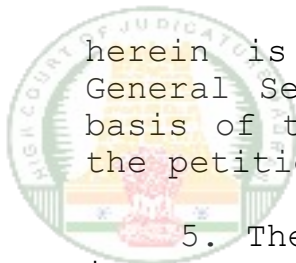
[Orders Reserved on 25.07.2017]

The petitioner / sole accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 153A of IPC., and Section 66(A) of the Information Technology Act, 2000 in Crime No.158 of 2017, seeks anticipatory bail.

2. The case of the prosecution is that the accused said to have portrayed a picture of India in Social Media - Face Book, on 10.04.2017 along with 'Bharatha Maatha' holding a National Flag in her hand in an indecent / naked manner standing on a Lotus Flower along with the words written as, "அம்மனமானது நாங்கள் மட்டும் அல்ல. உங்கள் பாரதமததாவும் தான்", which would create religious rioting between the Hindus and Non-Hindus. He also submitted that investigation is still pending.

3. The learned counsel appearing for the petitioner states that the petitioner is an innocent and he is no way connected with the alleged offence and due to previous enmity between the defacto complainant and the petitioner herein, the present false complaint has been lodged implicating the name of the petitioner as an accused and the defacto complainant has attempted to create a religious problem and the petitioner / accused has not portrayed such picture in the Face Book or in any other media and he is have no other previous cases in the similar nature of offences.

4. The learned Additional Public Prosecutor appearing for the first respondent, on instructions, would submit that the petitioner



herein is the sole accused and the defacto complainant is the General Secretary of 'Hindu Munnani' of Udangudi Union and on the basis of the written complaint, a case has been registered against the petitioner, who belongs to Muslim Community.

5. The learned counsel appearing for the defacto complainant / intervener would submit that the accused displayed the said objectionable picture with defamatory words by uploading the defamatory words against the sovereignty and integrity of the Indian Nation and the same is posted in the widely published Face Book and shared to many groups and the accused has committed a heinous crime against the integrity and sovereignty of the Nation and therefore, custodial interrogation of the accused is necessary to find out his antecedents and the nexus between his act and the intention, behind back.

6. Admittedly, the defacto complainant belongs to an 'Hindu Munnani' a faction of the Hindu Religious Party. The petitioner belongs to Muslim Community. The petitioner categorically denies the alleged act of portraying any such picture with defamatory words in the Face Book - Social Media. The investigation alone would bring out the truth as to who has portrayed the indecent picture in whose Face Book and by whom using the ID with the Password of the petitioner, if any. Hence, the custodial of the petitioner is not required on the facts of the case. Further, the petitioner has no bad antecedents also.

7. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Tiruchendur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that the petitioner shall report before respondent Police daily at 10.30 a.m., until further orders, for interrogation. The petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C., scrupulously.

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

sd/-

05/10/2017

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE, TIRUCHENDUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.

3 THE INSPECTOR OF POLICE,
KULASEKARAPATTINAM POLICE STATION, TUTICORIN DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.KA.RAAMA KRISHNAN Advocate SR.No.32152

ORDER

IN

CRL OP(MD) No.9110 of 2017

Date :05/10/2017

MKV-CM-MSA-SAR 1/6.10.2017/2P-6C