



WEB COPY

CRL OP(MD) . No.11486 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.11486 of 2019

Poobalan

... Petitioner/Sole Accused

Vs

State rep.by
The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District
Crime No.258 of 2019

... Respondent/Complainant

For Petitioner : M/s.B.Arun,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

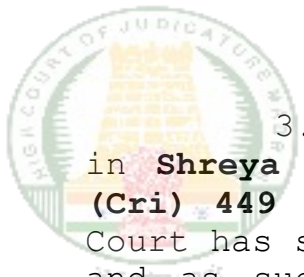
PRAYER :-

for Anticipatory bail in Crime No.258 of 2019 on the file of
the Respondent Police

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 506(i)
of IPC and 66(A) of the Information Technology Act, 2000 in Crime
No.258 of 2019, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein
posted a message in the face book against one political party viz.,
Puthiya Tamilagam and its founder Dr.Krishnasamy and also sent a
message and with regard to the same, one Purushothaman has lodged a
complaint before the respondent Police and based on the same, the
respondent Police has registered a case in Cr.No.258 of 2019 under
Section 506(i) I.P.C and under Section 66(A) of the Information
Technology Act, 2000.



3.The learned counsel for the petitioner has submitted that in **Shreya Singhal Vs Union of India (2015) 2 Supreme Court Cases (Cri) 449 : (2015) 5 Supreme Court Cases 1**, the Honourable Supreme Court has struck down Section 66-A of the Information Technology Act and as such, the respondent should not have registered the case under Section 66(A) of the Information Technology Act, 2000. He further submitted that merely because a message has been posted in the face book, it cannot be said that Section 506(i) I.P.C also will attract and therefore, he prayed to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent has fairly conceded that the Honourable Supreme Court has struck down Section 66(A) of the Information Technology Act, 2000 as unconstitutional. However, he opposed to grant anticipatory bail to the petitioner on the ground that 506(i) I.P.C will attract.

5.The Honourable Supreme Court in **Shreya Singhal Vs Union of India (cited supra)** has struck down Section 66(A) of the Information Technology Act, 2000 as unconstitutional and as such, the respondent cannot register a case under Section 66(A) of the Information Technology Act, 2000. If Section 66(A) of the Information Technology Act, 2000 goes, the remaining section is 506 (i) I.P.C. Hence, this Court is inclined to grant anticipatory bail to the petitioner, by imposing conditions:-

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Paramakudi 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m for a period of three weeks and thereafter, as and when required for the interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.



[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
21/08/2019

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE,
PARAMAKUDI.
 - 2.THE CHEIF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
 - 3.THE INSPECTOR OF POLICE,
PARAMAKUDI TOWN POLICE STATION,
RAMANATHAPURAM DISTRICT.
 - 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.B.ARUN Advocate SR.No.13825

ORDER
IN
CRL OP(MD) No.11486 of 2019
Date :21/08/2019

TK/VR/SAR.3/28.08.2019/3P/6C