

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. O.P. No. 7811 of 2020

1.V.K. Kaleem,
S/o. V.K. Wahid,
No.43, Muni First Street, Shakirabad,
Muslimpur, Vaniyambadi, Thirupattur District.

2.Faiyash @ J M Faiyaz Ahmed,
S/o. Aejaaz Ahmed,
24, Khaja Nagar, Basheerabad,
Vaniyambadi, Thirupattur District. .. Petitioners/ A4 & A5

State Represented by
Inspector of Police,
Vaniyambadi Town Police Station. .. Respondent/ Complainant

[Crime No. 1072 of 2020]

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioners : Mr. Arun Anbumani

For Respondent : Mr. M. Jothikumar
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for alleged offence punishable under Sections 189, 269 and 353 of I.P.C. and Sections 2 and 3 of the Epidemic Diseases Act and Section 51 (b) of the Disaster Management Act, in Crime No. 186 of 2019, seek anticipatory bail.

2.The case of the prosecution is that, while the defacto complainant, Village Administrative Officer and his Assistant, on information, went to the Karimabad village on 01.05.2020 and found that the petitioners and other accused persons were making nonbu kanji and were distributing the same at 14.00 hours, gathering the public in violation of orders issued under Section 144 during this pandemic situation. When the same was questioned by the defacto complainant, the petitioner and other accused persons abused and threatened them with dire consequences and prevented them from discharging their official duty. On complaint, a case has been registered under Sections 189, 269 and 353 of I.P.C. and Sections 2 and 3 of the Epidemic Diseases Act and Section 51 (b) of the Disaster Management Act.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in the present case. The Muslim people will break their fast during Ramalan only after sunset, i.e., around 06.30 p.m. and only at that time, nonbu kanji will be distributed. They have not committed any offence as alleged by the prosecution. The petitioners are law abiding citizens and are undertaking to co-operate with the investigation. The learned counsel appearing for the petitioners further submitted that A1, A2 and A3 were arrested and subsequently, enlarged on bail. The petitioners, who are A4 and A5, are willing to furnish sureties and abide by any condition that may be imposed by this Court and prayed for granting anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioners and other accused persons, in violation of orders issued by the Government, were making nonbu kanji and distributed the same, gathering the general public at 02.00 p.m. On complaint, a case has been registered and investigation is pending and hence, opposed for granting anticipatory bail to the petitioners.

5. Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

6. Taking into consideration the facts, nature of allegations made against the petitioners, the co-accused were arrested and enlarged on bail, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate, Vaniyambadi, Vellore District, on condition that the petitioners 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 Judicial Magistrate, Vaniyambadi, Vellore District, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(i) The petitioners and the sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

(ii) The petitioners shall report before the respondent Police once in a week on every monday at 10.30 a.m, until further orders.

(iii) The petitioners shall not abscond either during investigation or trial. The petitioners shall not tamper with evidence or witness either during investigation or trial.

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

(v) If the petitioners thereafter abscond, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, this Criminal Original Petition is allowed.

29.05.2020

Index : Yes / No
gsa

To

1.The Inspector of Police,
Vaniyambadi Town Police Station.

2.The Public Prosecutor,
High Court, Madras.



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V.M.VELUMANI, J.,

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