

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.11931 of 2020

Karthick

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
Cyber Crime Cell,
Central Crime Branch,
Vepery, Chennai - 7.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No. 249 of 2020, on the file of the Inspector of Police, Cyber Crime Cell, Cyber Crime Branch, Vepery, Chennai.

For Petitioner : Mr.D.Arun

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 153, 153(A), 153(B), 295A, 505(i) and 505(ii) of IPC, in Crime No. 249 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., R.C.Paul Kanagaraj, State president, BJP Advocates wing and ex-president, Madras High Court Advocate Association is that a You Tube channel viz., Karuppar Koottam was propagating rationalistic and atheist view points and recently the said channel had uploaded a content under the title "Aabasa Puranam Series - KandhaSashti Kavasham Kathakalatchepam" with sexual interpretation to the sacred hymns of Hindu religion thereby promoting enmity between different groups on the ground of religion which were also prejudicial to national integration.

3. The learned counsel appearing for the petitioner would submit that the petitioner is running a studio and that the other accused, who are his friends have produced and uploaded about 300 videos from his studio. He would submit that due to political motive based on a false complaint the respondent has registered the case. He would submit that the main accused in this case one Senthilvasan, who is said to be a mentor of the channel and Surendran Natarajan @ Nathigan, who is an anchor of the video, have surrendered before the respondent and they have been arrested and later they have been detained under Act 14, 1982. He would submit that Gagan/A3, who is an Editor and Sundar @ Somasundaram, who is the camera man of the programmes were arrested and they have also been released on bail by the Chief Metropolitan Magistrate, Egmore. He would submit that the respondent police has filed a custody application for the first and second accused and in the custody application, they have said that A1 and A2 had developed friendship during their meetings in the year 2017, A1 along with one Karthik, Milton, Gagan, Selvin and Sundar have started the You Tube channel viz., Karuppar Kootam. Senthilvasan/A1 is the mentor, technical advisor and analyst of social media and Sundar has worked as cameraman and Gagan has worked as an editor and Surendran Natarajan @ Nathigan has worked as the video anchor. All the videos were recorded in a private place in T-Nagar, near Kannammampet, by the members of Karuppar Kootam and it was upload through M.Senthilvasan. The said channel was administered and managed by one Milton and one Senthilvasan. Apart from the fact that the petitioner is the owner of the premises and the owner of the equipments, he has not committed any offence. He would submit that the respondent conducted a raid in the premises and the entire articles, equipments and records were seized and the premises is locked and sealed and the channel is also blocked. The custody of the petitioner may not be required. He would submit that the petitioner is prepared to appear before the respondent police for investigation.

4. The respondent/complainant has filed a detailed counter.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with other accused joined together and operated a You Tube channel called Karuppar Kootam and that they have uploaded several programmes propagating rationalistic and atheist view points and recently the said channel had uploaded a offensive program titled "Aabasa Puranam Series - KandhaSashti Kavasham Kathakalatchepam" with sexual interpretation to the sacred hymns of Hindu religion affecting the sentiments of Hindu religion thereby promoting enmity and hatred between groups prejudicial to communal harmony. He would further submit that the programmes were recorded from the studio owned by the petitioner and the said videos were uploaded by the first and second accused, the programmes were recorded by the fourth accused and they were edited by the third accused. The arrested accused have confessed that all the

recordings and uploading of the videos were carried out in T-Nagar office cum studio owned by the petitioner in the name Paripoorna Enterprises used as a media production house and that the bank account of the petitioner was connected to the account of the you tube channel Karuppar Kootam, and the monetisation has also come into the account of the petitioner. He would submit that the petitioner had uploaded highly derogatory and vulgar videos to malign the sanctity of the particular region promoting enmity and hatred which was prejudicial to maintenance of harmony and that the custodial interrogation of the petitioner is very much required.

6. At this juncture, the learned counsel appearing for the petitioner would submit that the entire documents and all equipments have been seized and the office and the studio has been locked and sealed by the respondent and further other than the amounts given as monetisation by the you tube channel from America, the petitioner has not received any amount from any other sources from any where in the world. He would submit that as a you tube channel, the petitioner is entitled for remuneration from you tube depending upon viewers in the channel. He would submit that the petitioner is prepared to appear before the respondent for investigation.

7. Earlier Mr. Paul Kanagaraj, had appeared on 07.08.2020 and sought time to file intervening application. Thereafter, when the matter was listed on 17.08.2020 and 19.08.2020, on both these dates, there was no representation for the intervener.

8. Heard both sides and perused the materials placed on record.

9. Taking into consideration the facts and submissions made by the learned counsels and the facts that the main accused have been arrested and detained under Act 14, 1982 and that second & third accused have been arrested and they have been enlarged on bail, this Court is inclined grant anticipatory bail to the petitioner subject to the following conditions.

10. Accordingly, the petitioners are directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Chief Metropolitan Magistrate Court, Egmore, Chennai, on condition that the petitioner shall execute a separate 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police every day at 10.30 a.m., until further orders.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

11. With the above directions, this Criminal Original Petition is ordered.

-sd/-

26/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF METROPOLITAN MAGISTRATE COURT,
EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CYBER CRIME CELL,
CENTRAL CRIME BRANCH,
VEPERY, CHENNAI-7.

CC to M/S. D.ARUN Advocate on payment of necessary charges

CRL OP.11931/2020

Date :26/08/2020

MK:11/09/2020



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