

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.12194 of 2020

Sivaji @ Sivakumar

... Petitioner

Vs.

State Rep. by
Inspector of Police
Thiruthuraipoondi Police Station
Tiruvarur District
(Crime No.2116 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.2116 of 2020, on the file of the Inspector of Police, Thiruthuraipoondi Police Station, Tiruvarur District.

For Petitioner : Mr.E.Karthik Raja

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 21.07.2020 for the offences punishable under Section 153, 504, 505(ii) IPC r/w Section 74 of Information Technology Act, 2000, in Crime No.2116 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant is that the petitioner has posted offensive post in Facebook insulting a party and its leader thereby causing hatred and enmity between two groups.

3.The learned counsel appearing for the petitioner would submit that the petitioner is a member of "Hindu Munnani" and he had expressed his political views, other than that, he has not committed any offence as alleged by the prosecution.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner has posted offensive messages in Facebook against a party and its founder leader. He would further submit that the petitioner is a habitual offender and he has also involved in 11 previous cases. Hence, he vehemently opposes for the grant of bail to the petitioner.

5.At this juncture, the learned counsel appearing for the petitioner would submit that in respect of previous cases, they are pertaining to the year 2014 and 2016 and other cases have been registered on account of the political activities. He would further submit that the petitioner is in judicial custody for more than one month.

6.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) Thereafter, the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, out of which, one surety should be a blood surety,** before the learned Judicial Magistrate, Thiruthuraipoondi, **within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier,** failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner on his release from prison, shall report before the respondent police everyday at 10.30 a.m. until further orders.

(e)the petitioner shall not commit any offences of similar nature;

(f)the petitioner shall not abscond either during investigation or trial;

(g)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) On breach of any of the aforesaid conditions, the learned Judicial Magistrate/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 in P.K.Shaji Vs. State of Kerala [(2005)AIR SCW 5560];

(i) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
19/08/2020

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 JUDICIAL MAGISTRATE,
THIRUTHURAIPOONDI.

2 THE JAILER,
SUB-JAIL, THIRUTHURAIPOONDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUTHURAIPOONDI POLICE STATION,
TIRUVARUR DISTRICT.

CC to M/S.G.KARTHIKEYAN Advocate on payment of necessary charges

CRL OP.12194/2020

Date :19/08/2020

MK:07/09/2020