

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.12075 of 2020

Sheik Alaudeen

... Petitioner /
1st Accused

Vs.

State rep. By its
The Inspector of Police,
Tiruppur North Police Station,
Tiruppur.
(Cr. No.1599 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of his arrest
in Crime No.1599 of 2020 on the file of the respondent police.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.M.Mohammad Riyaz
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 153, 505 (1)(c) and 505 (2) IPC, in Crime No.1599 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant/Mullai Manikandan is that he is the District Secretary of the Hindu Munnetra Kazhagam and that on 06.07.2020, the State organizing Secretary of his party one Lotus Manikandan had uploaded certain postings about the activities of his party. In counter to the said posting, the accused had posted abusive material defaming the President of the defacto complainant's party with an intention to promote and create enmity between two religious groups.

3. The learned counsel for the petitioner submitted that even as per the complaint the petitioner is stated to have posted material only, in counter to the posting made by the defacto complainant, even taking into consideration, the alleged content was only personal in nature and the petitioner had not posted anything against any religion in particular. Due to political animosity the petitioner has been unnecessarily dragged in this issue. He would further submit that the petitioner has also filed an undertaking affidavit not to make any offensive post in social media, which are punishable under law. The learned counsel further submits that the petitioner will not post any abusive messages against the defacto complainant in future. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that the petitioner has posted abusive content in the Facebook, against the leader of the defacto complainant's party by such post, the petitioner had wantedly given provocation with an intention to cause riot, further by such post, the petitioner created and promoted enmity and hatred between two groups. He would submit that there is no previous case pending against the petitioner. However, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsel and the fact that there is no previous case pending against the petitioner and also the affidavit of undertaking filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days after lifting of lock down or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate- I, Tiruppur on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, 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 daily at 10.30 a.m. for a period of two weeks and thereafter every Monday 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.

7. With the above directions, this Criminal Original Petition is ordered. The affidavit of undertaking shall form part of Court records.

-sd/-
04/09/2020

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,
NO.I, TIRUPPUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
TIRUPPUR NORTH POLICE STATION,
TIRUPPUR.

CC to M/S. I.ABDUL BASITH Advocate on payment of necessary charges

CRL OP.12075/2020

Date :04/09/2020