

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12906 of 2020

A.Thamimul Ansari

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Nagoor Police Station,
Nagapattinam District.
Crime No.1463 of 2020.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime No.1463 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.M.S.Charles

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 153A, 295A, 505(2) of IPC r/w Section 67 of IT Act, in Crime No.1463 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Sundaravadivelan stated that the petitioner had posted the abusive posting in facebook promoting enmity between different groups on the ground of religion and had done Rituals Act Prohibitory and maintenance of harmony.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that a false case has been foisted against him. He would also submit that without prejudice to his contention the petitioner had filed an affidavit of undertaking that, he will not post any matters in Social Media or elsewhere that would likely to cause promotion of disharmony, enmity or feelings of hatred or ill-will between different religious, rituals, languages or regional groups or clash of humanities in any occasion. It also unconditional stated that he will not post any matter on against any religion in future at any circumstances at anywhere. The learned counsel further submitted that the petitioner has expressed his remorse for having uploaded such memes and its undertaking may be taking into consideration and grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner had posted abusing message and creating enmity between two religion groups. He would also submit that there is no case pending against the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsel and the affidavit of undertaking shall become part of the Court records, 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 (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before **the learned Judicial Magistrate No.II, Nagapattinam**, 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 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 daily at 10.30 a.m., for a period of two weeks and thereafter on 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 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]**.

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

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

9. The Affidavit of undertaking shall form part of the Court records.

-sd/-

03/09/2020

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.II, NAGAPATTINAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NAGOOR POLICE STATION,
NAGAPATTINAM DISTRICT,

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

CRL OP.12906/2020

Date :03/09/2020

GKS:29/09/2020