

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2020

CORAM :

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

Crl.O.P.No.13837 of 2020

Tajudeen

... Petitioner

Vs.

State Rep by

The Inspector of Police

Muthupettai Police Station

Tiruvarur District

Crime No.2279 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.2279 of 2020 on the file of the Inspector of Police, Muthupettai Police Station, Tiruvarur District.

For Petitioner : Mr.Mohammed Aseef

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 17.08.2020 for the offence punishable under **Sections 153, 153(A), 505(1)(c) of IPC, read with Section 67 of Information Technology Act, 2000, in Crime No.2279 of 2020**, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Dinesh Kumar is that the petitioner has uploaded certain contents in his Face Book page promoting enmity between two different groups on the ground of religion and by doing such act, the petitioner had indulged in the activities that would prejudice the peaceful maintenance of the harmony between two religion groups. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely

implicated in this case due to political animosity. However, he would submit that without prejudice to his contentions, the petitioner has also filed an affidavit of undertaking before this Court and the relevant portion in para 3 is extracted hereunder;

3. I undertake that hereafter I will not post or upload any defamatory entries or videos or memes or tweets against any particular religion or caste or any political parties or any political leaders or any ideologies in facebook, twitter, instagram, whatsapp, YouTube or any other social media platform. I will not spread any hatred messages against anyone or any community which will affect the harmony of the country and I will not act against the sovereignty and integrity of our Country. I further undertake that I will spread brotherhood between that communities and I will work for the development of our Nation.

4. The learned Government Advocate (Criminal Side) would submit that the petitioner is continuously involving in this kind of activities and that there are two previous cases against the petitioner registered in Crime Nos.247 of 2019 and 2249 of 2020 for similar nature of offence. Hence, he vehemently opposed for grant of bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioner undertakes to standby the affidavit of undertaking which is filed before this Court and the petitioner has agreed not to indulge in any such activities any further.

6. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and also considering the period of incarceration undergone by the petitioner from 17.08.2020, 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;

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

(c) Thereafter, the petitioner shall **within a period of two weeks from the date of commencement of the Court's normal functioning**, 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 **learned Judicial Magistrate, Thiruthuraipoondi**, failing which the bail granted by this Court shall stand dismissed automatically;

(d) **the copy of the affidavit of undertaking shall be filed before the concerned Magistrate at the time of executing sureties.**

(e) 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;

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

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

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

(i) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

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

-sd/-
11/09/2020

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,
THIRUTHURAIPOONDI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR DISTRICT [FOR INFORMATION]

3 THE JAILER, SUB JAIL,
NAGAPATTINAM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
TIRUVARUR DISTRICT

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

सत्यमेव जयते

CRL OP.13837/2020

Date :11/09/2020

GKS:15/09/2020

WEB COPY