

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.13997 of 2020

S.Kaviyarasan

... Petitioner

Vs.

The State rep by
The Inspector of Police
Mayiladuthurai Police Station
Nagapattinam District

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of arrest by the respondent police in Crime No.1226 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Sivakumar

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 offences punishable under Sections 153A, 504, 505(2) of IPC and 67 of Information Technology Act 2000, in Crime No.1226 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Modi Kannan is that he is a political functionary of B.J.P. Party and he is also the Town Secretary of Mayiladuthurai Town and that on 07.08.2020 he had seen certain abusive posts in Face Book page of the accused named Kevin Louis against the Hon'ble Prime Minister and thereby, he had requested to take action against the accused.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the defacto complainant has ideological differences against the petitioner and thereby, a false complaint has been given against the petitioner. He would submit that the petitioner had only uploaded a political post against the Hon'ble Prime Minister and it was not done in bad taste and if it had hurt

the feelings of the defacto complainant, the petitioner is ready to express his remorse. He would further submit that the petitioner has also filed an affidavit of undertaking before this court expressing his remorse and would submit that it was not done with an intention to create fear or alarm or incite the public or to create unrest in the society through his act. He would further submit that the petitioner has high regard for the Hon'ble Prime Minister and he has no intention either to degrade his Excellency in the social media or has an intention to create unrest among the society. He would further submit that the petitioner is a practising Advocate and he has also undertaken not to upload any such content in future and he has also admitted that he has a duty to be careful before sharing any post in social media. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would vehemently oppose stating that the petitioner had uploaded abusive contents against the Hon'ble Prime Minister in the page of his social media/Face book.

5. Heard Counsels. The affidavit of undertaking dated 08.10.2020 filed by the petitioner is taken on record and it shall form part of the Court records.

6. Considering the above fact and circumstances of the case and the affidavit of undertaking, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Mayiladuthurai, 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. 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/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-

14/10/2020

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,
MAYILADUTHURAI.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 CC to M/S. M.SIVAKUMAR Advocate on payment of necessary charges
SR.No.6990

WEB COPY

CRL OP.13997/2020

Date :14/10/2020

cs 21/10/2020