

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

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

CRL.O.P.No.18238 of 2020

K.Rajesh Kumar

... Petitioner

Vs.

Inspector of Police,
DCB Villupuram P.S.,
Villupuram.
(Crime No.23 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail in Crime No.23 of 2020 (on the file of the Inspector of Police, DCB, Villupuram) pending investigation of the case.

For Petitioner : Mr.A.Asvathamam

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 10.09.2020 for the offences punishable under Section 153(A), 295(A), 298, 504, 505(1)(c) and 505 (2) of IPC r/w 67 of IT Act, in Crime No.23 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz Mohammad Rafi is that he is the District General Secretary of SDPI party and that on 08.08.2020 he had seen the face book page of Raash Kuppasamy and he was shocked to see certain abusive contents uploaded in his face book page against his religion and its prophet and also against other religions. Finding that the abusive content had been intentionally posted with an intend to insult the religion and to provoke breach of peace and create and promote enmity and ill will between the religions, a complaint was made to the respondent.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and that a false complaint has been given by the defacto complainant due to religious differences. He would further submit that one Karruppa Kootam has posted certain abusive content against the petitioner's religion and as a retaliation, the petitioner had posted certain replies and that the petitioner did not intend to insult any religion. However, the learned counsel would submit that the petitioner has expressed his remorse for having uploaded such content and that he has also given a letter of undertaking before this Court stating that he will not post such abusive content in future. He would further submit that the petitioner was arrested on 11.09.2020 and is in custody for more than two months and that major part of the investigation is also over.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner has posted abusive content about particular religion group and promoted hatred and enmity between two groups.

5.Heard the learned counsel on either side. Perused the materials placed on record including the affidavit filed by the petitioner.

6.Taking into consideration of the facts and submissions made by the learned counsels and also considering the affidavit of undertaking filed by the petitioner that he will not post such abusive content hereinafter, 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 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 No-I, Villupuram, and on further conditions that:

(b) 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;

(c) the petitioner, on his release from prison, shall report before the respondent police everyday at 10.30 a.m. for a period of three weeks and thereafter on every Monday at 10.30 a.m. until further orders.

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

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

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

(g) 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];

(h) 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/-
19/11/2020

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,
VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE JAILER,
DISTRICT JAIL,
VILLUPURAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
DCB VILLUPURAM P.S.,
VILLUPURAM.

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

CRL OP.18238/2020

Date :19/11/2020