



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.05.2020
PRONOUNCED ON : 28.05.2020

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P(MD)NO.5451 OF 2020
AND
CRL.M.P(MD) .NOS.3054 & 3062 OF 2020

Thiru.V.Senthilbalaji ... Petitioner/Accused

Vs

State Rep. By,
Special Sub-Inspector of Police,
Thanthonimalai Police Station,
Karur-639 007.
(Crime No.264 of 2020)

... Respondent/Complainant

[Presently, FIR in Crime No.264 of 2020 is on
the file of the Inspector of Police, CB-CID,
Karur in Crime No.2 of 2020.]

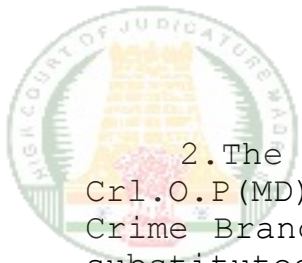
Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C
praying, to grant an order of anticipatory bail in the event of his
arrest by the respondent in connection with the above Crime No.264
of 2020 on the file of the respondent herein.

For Petitioner : Mr.S.Prabhakaran, Senior Counsel
for Mr.K.S.Arivazhagan and
Mr.N.Bharanikumar

For Respondent : Mr.A.Natarajan
State Public Prosecutor
Assisted by
Mr.S.Karthikeyan
Additional Public Prosecutor

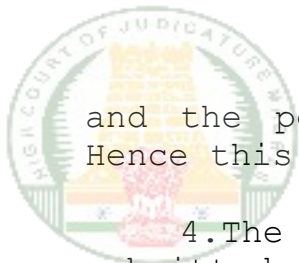
ORDER

The petitioner, who apprehends arrest at the hands of the
respondent police for the alleged offences punishable under Sections
143, 270, 153, 294(b), 353 and 506(ii) of IPC in Crime No.264 of
2020, seeks anticipatory bail. Now the FIR in Crime No.264 of 2020
has been transferred to the file of the Inspector of Police, CB-CID
Karur and assigned as Crime No.2 of 2020.



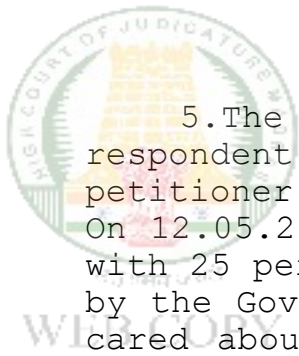
2.The petitioner had filed Crl.M.P(MD).No.3054 of 2020 in Crl.O.P(MD).No.5451 of 2020 to array the Superintendent of Police, Crime Branch CID, Chennai as 2nd respondent. In view of this Court substituted the Inspector of Police, CD-CID, Karur as respondent in the place of Special Sub Inspector of Police, Thanthonimalai Police Station, Karur, no separate order is required in Crl.M.P(MD).No.3054 of 2020 in Crl.O.P(MD).No.5451 of 2020.

3.The case of the prosecution is that the petitioner, former Transport Minister in the Government of Tamil Nadu for the period from 2011 to 2015 and he is presently Member of Legislative Assembly from Aravakuruchi Constituency. The respondent received a complaint from the informant namely, Mr.Anzhagan, District Collector of Karur on 16.05.2020. From the complaint, it is found that on 12.05.2020 when the informant was in his office at 11.30 a.m, the petitioner along with 25 others had come to give a representation violating the Government guidelines in maintaining social distancing to avoid the spread of COVID-19 and against the prohibitory orders. Though the petitioner was informed about the restrictions that only four persons are allowed to meet the Collector, violating the law the petitioner refused to maintain social distance, forcibly entered the room of the Collector along with 25 others. Thereafter, the petitioner handed over representation to the Collector. The Collector received the representation, assured that he will forward the same to the concerned Government authorities and proper action will be taken. Thereafter, the petitioner questioned the Collector why he was not called for review meetings conducted by the Collector. Despite the Collector giving explanation that review meetings were held urgently within short time, it was not acceptable to the petitioner and he intimidated the Collector. Thereafter, the petitioner left the room of the Collector and addressed the press and media of 20 persons present in the entrance of Collectorate in an emotional and aggressive manner. While addressing the press media, the petitioner stated that it is not proper for the Collector to conduct review meetings without inviting the petitioner and if is to continue, it will not be proper. He further stated if the Collector continues to adopt the same method of avoiding the petitioner in attending review meetings, it would be difficult for Collector to go around freely and thereby, the petitioner had threatened the Collector of his safety and well being. On earlier occasion, during the parliamentary election on 15.04.2019, the petitioner had sent 100 persons during midnight and threatened the Collector and caused threat, danger to the life of the Collector. Thereafter, the Collector informed the Superintendent of Police and after arrival of the police force, the crowd left the camp office of Collectorate. On 12.05.2020, the petitioner threatened the Collector in the presence of public and created fear fiasco and commotion among the people through media. Further, in the complaint, the Collector sought protection for himself and his family members for any untoward incident which may happen to them



and the petitioner would be the reason and cause for the same. Hence this complaint.

4.The learned senior counsel appearing for the petitioner submitted that the petitioner being an elected representative of the people, representing the general public of his constituency wanted to give representation to the Collector for the needs and grievances of the public who are suffering from non-availability of relief materials and inadequacy of care taken given by the Government. Further, the petitioner wanted to utilize the MLA constituency funds allotted to his constituency to be used for the welfare of the people. Despite the petitioner being the representative of the people, the petitioner was neglected and he was not informed about the review meetings which were held on 03.05.2020 and 04.05.2020 which was questioned by the petitioner as also for other meetings the details are given in the typed set. It is also represented that the petitioner has been neglected in a systematic manner and the petitioner was not informed about what measures taken during COVID-19. Earlier, the petitioner gave representation to the Collector on 25.03.2020, 17.04.2020 and 22.05.2020 informing about the precarious situation. Thereafter, the petitioner along with two persons representing each constituency called upon the Collector on 12.05.2020. In support of his contention, the petitioner produced a photograph showing the same. From the photograph, it is seen the Collector seated in a calm and composed manner and he was not in a agitated mood as stated in the complaint. At the behest of political rivals and to keep away the petitioner from helping the poor people, eposuing the cause of needy, which were not comfortable to the rulers, a false complaint has been lodged against the petitioner. Further, in the office of Collectorate, CCTV camera are available and footage recordings would clearly show that the complaint given by the Collector is false. Further, the room of the Collector is guarded and entering the room of the Collector is not possible without permission. The petitioner did not violate the procedure and after request only, he met the Collector. The petitioner no way had forced entry along with 25 persons and threatened the Collector and abused him in any manner. The petitioner had not obstructed the Collector in any manner. The petitioner questioned the Collector for neglecting the representative of the people and district leader of the opposition party, who was fighting for the welfare of the people and denial of beneficial schemes for the people. The petitioner being a politician elected representative had only done his duty to the people he owed and had addressed the media to inform the public about the partisan attitude of the Collector, who is expected to be common, sensitive to the needs of the people. On a demerur, he submitted that the empty threats would not constitute intimidation. The learned counsel for the petitioner further submitted that the petitioner is prepared to co-operate with the investigation and hence, he prays to grant anticipatory bail to the petitioner.



5.The learned State Public Prosecutor appearing for the respondent has filed a counter and typed set and submitted that the petitioner always used to go around, exhibiting his muscle power. On 12.05.2020, the petitioner barged into the room of the Collector with 25 persons against the prohibitory orders and guidelines issued by the Government, to maintain social distance. The petitioner not cared about COVID-19 and its spread. The petitioner is in the habit of creating disturbance to the law and order and public order to create attention and sensation. The petitioner threatened the Collector of the District who is also District Magistrate having judicial powers. The petitioner is constantly threatening and creating problems to the officials of the entire District. He further submitted that due to COVID-19, urgent and emergency review meetings were held within a short time to coordinate with the officials involved in the process of relief measures. The petitioner is in the habit of being emotive before the press and media against the Collector, who is attending to the relief and rescue work with regard to COVID-19. Earlier, the petitioner on 15.04.2019 midnight had sent 100 persons to the camp office of the Collector picked up quarrel with the staff there and raised slogans. Thereafter, the Collector had to call the Superintendent of Police for help, on arrival of the police force, the crowd dispersed, the petitioner constantly intimidating and threatening the Collector and not allowing the Collector to function and carry on with his work. The petitioner wanted to project himself to be the person in command of Karur District and nobody can control him. The petitioner is involved in eight cases, the first case was registered during 2017 by CCB for cheating the public to get job. In the year 2018, when the petitioner deflected from the ruling party, he violated Section 30(2) of the Police Act. Thereafter, during March 2019 and April 2019, he was involved in four cases violating orders, holding demonstration during the parliamentary election. During December 2019, he held a protest meet against the Government for CAA, during January 2020, he held dharna for some issues during panchayat election. Thus, the petitioner takes law into his hand with scant respect to the authorities and for to law and order. The petitioner is in the habit of creating law and order problem and disturbance of public order. Further submitted that if this Court grants anticipatory bail to the petitioner, the petitioner will continue to indulge in unlawful activities and would create law and order problem causing disturbance of peace. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

6.One M.Sivakumar, S/o.Murugaiyan of Rajapuram, Karur District had filed intervening petition in Crl.M.P(MD)No.3062 of 2020 in Crl.O.P(MD).No.5451 of 2020 and stated as follows:-

(i)The learned counsel for the intervenor submitted that he is a vegetable vendor in Aravakuruchi constituency stated that the petitioner being the representative of the people is acting against



petitioner has been indulging in unlawful activities. Further, the petitioner's involvement in various cases, would go to show that the petitioner is not a law abiding citizen and acts against the against the oath which he has taken as representative of the people. Further, during the by-election for Aravakuruchi, the election had to be postponed twice by the Election Committee due to the corrupt practice indulged during the election. The bad antecedents of the petitioner would go to show that the petitioner is not a law abiding citizen and he has taken law into his hand, threatening the Collector addressing the media with menacing words. Further by spreading threatening messages through media the petitioner makes a claim that he is above law. The petitioner, due to political vengeance had caused obstructions to the District Administration. He further referred the Hon'ble Apex Court guidelines in granting relief under 438 Cr.P.C, which has to be exercised with caution, the bad antecedents of the petitioner would go to show that the petitioner is not a law abiding citizen and hence, he opposed for grant of anticipatory bail to the petitioner and prayed for dismissal of the present petition.

(ii)The learned counsel for the intervenor relied upon the citation of this Court in the case of ***Rathinam Versus the State reported in 2000 2 SCC 391*** and in the case of ***K.Anbazhagan Versus the Superintendent of Police and others reported in 2004 (3) SCC 767***. The citations relied upon by the learned counsel for the intervenor are not applicable to the facts and circumstances of the case.

7.Further, this Court in the case of ***Adhi Rajaram Versus the State rep. by the Inspector of Police and another reported in 1995 (II) CTC 483***, following various Judgments as well as the Hon'ble Apex Court Judgments had held that "...that State which is the custodian of the social interests of the community at large and so it is for the State to take all the steps necessary for bringing the person, who has acted against social interests of the community to book" ...expressed, such a course to implead private party not legally permissible. However, following *A.R.Antulay v. R.S.Nayak* (AIR 1984 SC 718) that "right of a party to represent matters before Court cannot be whittled down into a strict jacket formula of locus standi" ... permitted to make representations in "this proceedings", without impleading as party-respondent."

8.In view of the above, the Intervening Petition is not maintainable, since the intervenor M.Sivakumar is not an informant nor a person concerned with the commission of alleged offence and as such, the intervenor has not right to interfere. Therefore, the Intervening Petition in Crl.M.P(MD)No.3062 of 2020 in Crl.O.P(MD). No.5451 of 2020, is rejected.

9. Considering the rival submissions and on perusal of the

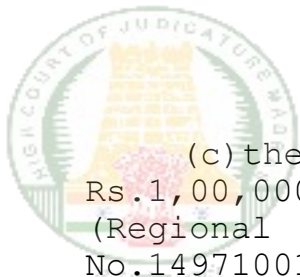


materials produced, it is seen that on 12.05.2020, the petitioner had visited the Collector Office, met the Collector presented petitions with 8 others according to the learned counsel for the petitioner. According to the prosecution there were 25 others along with petitioner. The photo produced by the learned senior counsel for the petitioner shows the petitioner with eight others are seated in front of the Collector and the atmosphere of the meeting appears to be in calm and composite manner. Though the State Public Prosecutor disputes that the photo is an edited version, it is not denied as morphed. For the question put by this Court with regard to video recordings of CCTV Camera available in the Collectorate, the State Public Prosecutor stated CCTV cameras were not working on the relevant date. In the absence of any contra material at this stage, prima facie it is seen that the meeting of the petitioner with the Collector on 12.05.2020 at the chambers of Collector was cordial. As regards the other allegation of addressing the press and media, the recordings are available and speech is in public domain. Pursuant to the speech nothing thereafter materialized. As regards the previous cases against the petitioner, most of the cases are violation of promulgation of Section 30(2) of the Police Act, coupled with IPC offences which are registered for democratic protest for which the petitioner had assembled with others. Most of the cases are election related cases which are not unusual. For the earlier case lodged by the Collector on 16.04.2019 in Crime No.116 of 2019, in it reference are made against the petitioner and Ms.Jothimani, Congress candidate for member of parliament election then, as the persons who instigated 100 persons to present a petition to the Collector in connection with election dispute. None of the cases cited against the petitioner appears to be heinous one. Further, the petitioner being a elected member of Legislative Assembly, a people representative is interested in welfare of the people and to see that the administration is disposed in this regard. They are mouth piece to ventilate the grievances of the public at large specifically the people belonging to their constituency.

10.In view of the same, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:-

(a)the petitioner shall file an affidavit and give undertaking that he shall not indulge in similar offences and he shall not obstruct the functioning of the informant and his administration in any manner. The affidavit to be filed while the petitioner executing sureties;

(b)the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) before the learned Judicial Magistrate No.II, Karur on or before 01.07.2020, failing which the anticipatory bail granted by this Court shall stand dismissed



(c)the petitioner voluntarily came forward to deposit a sum of Rs.1,00,000/- (Rupees one lakh only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020, bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch;

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(d)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;

(e)the petitioner shall appear before the Inspector of Police, CB-CID, Karur for a period of two weeks daily at 11.00 a.m., after lifting of the COVID-19 restrictions;

(f)the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

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

(h)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];

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

11.The observations made herein is only for dispose of this bail application. This Court has not gone into merits or otherwise of the case of the prosecution and defence taken by the accused.

sd/-
28/05/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
KARUR.



2 -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.

3 THE SPECIAL SUB INSPECTOR OF POLICE,
THANTHONIMALAI POLICE STATION,
KARUR-639 007.

4 THE INSPECTOR OF POLICE,
CB-CID,
KARUR.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER IN CHARGE,
THE CANCER INSTITUTE (WIA) ,
(REGIONAL CANCER CENTRE) ,
ADYAR, CHENNAI-600 020.

ORDER

IN

CRL OP (MD) No.5451/2020 and
CRL MP (MD) Nos.3054&3062/2020

Date :28/05/2020

VV2

SRS/ JC/SAR-III/ 20.10.2020/ 8P/7C