



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 06/08/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD). No.8121 of 2020

S.Nandakumar

... Petitioner/Accused No.1

Vs

State Rep.by
The Sup Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.
Crime No.409 of 2020.

... Respondent/Complainant

For Petitioner : Mr.V.Vijayshankar, Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Cr.No.409 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offences punishable under sections 465 and 466 of IPC, in Crime No.409 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and his brother said to have fabricated Community certificate as "Kondareddis Scheduled Tribe Community" for getting into professional course. Hence, the present complaint.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4.The learned counsel appearing for the petitioner submitted that the petitioner and his brother have obtained Community certificate from the Sub-collector, Nagercoil, as "Kondareddis; Scheduled Tribe Community" and the petitioner has completed B.E



Course. He further submitted that on enquiry, the State Level Scrutiny Committee has found that the petitioner's Community certificate found to be false and the same was cancelled and issued further direction to the District Collector, Kanyakumari District to process and initiate criminal action against the petitioner and his brother. Challenging the same, the petitioner has filed a writ petition before this Court in W.P.(MD).No.30051 of 2008 and by order dated 19.12.2008, this Court permitted the petitioner to approach the District Collector, Kanyakumari District, and file an undertaking affidavit stating that the Community certificate was never used for employment in any Government Department including admission for his children. However, a direction was issued to the Collector, Kanyakumari District, after necessary verification, shall decide whether this a case in which criminal action is required to be taken against the petitioner or not. Thereafter, the petitioner said to have filed an undertaking affidavit before the District Collector, Kanyakumari District, stating that the petitioner never used the Community certificate for any employment purpose. Despite the same, the criminal proceedings has been initiated against the petitioner. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side), appearing for the respondent police submitted that the petitioner has obtained fabricated Community certificate as "Kondareddis Scheduled Tribe Community". After knowing the fact, the State Level Scrutiny Committee cancelled the Community certificate and issued direction to the District Collector, Kanyakumari District, to initiate criminal proceedings against the petitioner and also prevented the petitioner by using the community certificate in future and for education of his legal heirs.

6.The learned counsel appearing for the petitioner replied that the petitioner never used the Community certificate for any purpose, including service and education of his legal heirs.

7.Considering the facts and circumstances of the case and also considering the rival submission on either side and on perusal of the materials available on record, it is seen that the Community certificate was cancelled in the year 2008, thereafter, the petitioner has filed an undertaking affidavit that he never used the community certificate for any purpose and also for education to his legal heirs. Considering the above circumstances and till now the petitioner did not use the Community certificate, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate II, Nagercoil, on condition that the petitioner execute a bond for a sum of Rs.25,000/- (Rupees



Twenty Five thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 as and when required for interrogation.

(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]; and;

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

sd/-

06/08/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.II, NAGERCOIL.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3. THE SUP INSPECTOR OF POLICE,
NESAMONY NAGAR POLICE STATION, KANYAKUMARI DISTRICT.

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

+1 CC to M/s.V.VIJAYA SHANKAR, Advocate (SR-5910[I] dated 06/08/2020
ORDER IN

CRL OP(MD) No.8121 of 2020

Date :06/08/2020