

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.03.2021
DELIVERED ON : 23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.Nos.4078, 4077, 4079, 4080,
4081, 4085, 4087, 4088, 4089 and 4090 of 2021

C.S.Karnan .. Petitioner in all the Crl.O.Ps

Vs.

The State represented by
Inspector of Police,
Cyber Crime Cell,
Team-13 Central Crime Branch,
Vepery, Chennai.
(Crime No.14 of 2021)

.. 1st Respondent in Crl.O.P.No.4078/21

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 29, Central Crime Branch,
Vepery, Chennai.
(Crime No.15 of 2021)

.. 1st Respondent in Crl.O.P.No.4077/21

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 29, Central Crime Branch,
Vepery, Chennai.
(Crime No.16 of 2021)

.. 1st Respondent in Crl.O.P.No.4079/21

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 14, Central Crime Branch,
Vepery, Chennai.
(Crime No.12 of 2021)

.. 1st Respondent in Crl.O.P.No.4080/21

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The State,
Rep. by Inspector of Police,
Central Crime Branch Team-1,
Vepery, Chennai.
(Crime No.321 of 2020) .. 1st Respondent in CrI.O.P.No.4081/21

The Inspector of Police,
Central Crime Branch Team-32,
Vepery, Chennai.
(Crime No.356 of 2020) .. Respondent in CrI.O.P.No.4085/21

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team 14, Central Crime Branch,
Vepery, Chennai.
(Crime No.13 of 2021) .. 1st Respondent in CrI.O.P.No.4087/21

The State, Rep. by
Inspector of Police,
Cyber Crime Cell,
Team-13, Central Crime Branch,
Vepery, Chennai.
(Crime No.364 of 2020) .. 1st Respondent in CrI.O.P.No.4088/21

The State,
Rep. by its Inspector of Police,
Central Crime Branch,
Office of Commissioner of Police,
Greater Chennai, EVK Sampath Road,
Vepery, Chennai.
(Crime No.316 of 2020) .. Respondent in CrI.O.P.No.4089/21

The State,
Rep. by its Inspector of Police,
Central Crime Branch,
Office of Commissioner of Police,
Greater Chennai, E.V.K.Sampath Road,
Vepery, Chennai 600007.
(Crime Nos.294 of 2020) .. Respondent in CrI.O.P.No.4090/21

Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary C.Rajkumar,
High Court Buildings, N.S.C.Bose Road,
Chennai - 600 104. .. 2nd Respondent in all the CrI.O.Ps. except
CrI.O.P.Nos.4085, 4089 & 4090 of 2021

Prayer in Crl.O.P.No.4078 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.14 of 2021 on the file of the first respondent police.

Prayer in Crl.O.P.No.4077 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.15 of 2021 on the file of the first respondent police.

Prayer in Crl.O.P.No.4079 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.16 of 2021 on the file of the first respondent police.

Prayer in Crl.O.P.No.4080 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.12 of 2021 on the file of the first respondent police.

Prayer in Crl.O.P.No.4081 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.321 of 2020 on the file of the first respondent police.

Prayer in Crl.O.P.No.4085 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.356 of 2020 on the file of the first respondent police.

Prayer in Crl.O.P.No.4087 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.13 of 2021 on the file of the first respondent police.

Prayer in Crl.O.P.No.4088 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.364 of 2020 on the file of the first respondent police.

Prayer in Crl.O.P.No.4089 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.316 of 2020 on the file of the respondent police.

Prayer in Crl.O.P.No.4090 of 2021: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail in Crime No.294 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Rajagopalan
in all Crl.O.Ps. SC for Mr.M.Ravichandran

For Respondent 1 : Mrs.M.Prabhavathi
in all Crl.O.Ps. Additional Public Prosecutor

For Respondent 2 : Mr.S.Prabhakaran,
in all Crl.O.Ps SC for Mr.C.K.Chandrasekhar,
except 4085, 4089 Standing Counsel for Bar
&4090/21 Council of Tamil Nadu and Puducherry

C O M M O N O R D E R

All these petitions have been filed seeking bail. As the petitioner and the respondents in all these bail petitions are one and the same and the allegations are also identical, all the petitions were heard together and disposed of by means of this common order.

2. The petitioner in all the bail petitions, is a former Judge of this Court and the High Court of Calcutta. These are second bail petitions, earlier bail petitions filed by the petitioner were dismissed by this Court on 16.02.2021. Ten FIRs have been registered against the petitioner by the respondent police on the ground that, he has uploaded as many as 33 abusive videos on social media viz., YouTube and Facebook on various accounts created by the petitioner, wherein, he has abused the former Chief Justices of India, former and sitting Judges of Hon'ble Supreme Court of India and former and sitting Judges of this High Court, their family members with vulgar, scandalous, vituperative and obscene words. Apart from that, the petitioner also stated to have abused the practicing Advocates of this Court and staff members of the Registry. The details of the Crime Numbers, offences, and the date of arrest are as follows:

Sl. No.	Date of Registration	Crime Number	Provisions of law under which crime registered	Date of Arrest of A1 / petitioner
1	26.10.2020	294 of 2020	Under Section 153, 509 of IPC @ into Section 228, 509, 294(b), 506(ii) r/w 120-B of IPC, Section 67-A of Information Technology Act, Section 4 of Tamil Nadu Prohibition Woman Harassment Act and Section 4 of Indecent Representation of Women Act	02.12.2020
2	24.11.2020	316 of 2020	-do-	07.12.2020 [formally arrested]
3	25.11.2020	321 of 2020	-do-	04.12.2020 [formally arrested]
4	29.12.2020	364 of 2020	-do-	04.02.2021 [formally arrested]
5	16.01.2021	12 of 2021	-do-	04.02.2021 [formally arrested]
6	16.01.2021	13 of 2021	-do-	04.02.2021 [formally arrested]
7	16.01.2021	14 of 2021	-do-	04.02.2021 [formally arrested]
8	16.01.2021	15 of 2021	-do-	04.02.2021 [formally arrested]
9	16.01.2021	16 of 2021	-do-	04.02.2021 [formally arrested]
10	18.10.2020	356 of 2020	Under Section 294(b) and 448 of IPC @ into Sections 143, 147, 294-B, 448 and 506(ii) of IPC r/w Section 4 of Tamil Nadu Prohibition Woman Harassment Act	07.01.2021 [formally arrested]

3. Out of the 10 complaints, the first complaint was filed by one Mrs.Devika, a practicing Advocate of this Court, and other complaints were filed by one Mr.T.Ram Shankar, General Secretary of Delhi Tamil Advocate Association and one Mr.T.Rajkumar, Secretary of Bar Council of Tamil Nadu and Puducherry. The last complaint has been given by one Mr.Devaraj, Assistant Security Officer at KGS Eternity Apartment, Kalashetra Colony, Chennai, wherein one of the former Judges of the Hon'ble Supreme Court of India having her residence, alleging that the petitioner stated to have trespassed into the apartment and abused the inmates and also threatened the daughter and son-in-law of the Hon'ble Judge in filthy words.

4. In the earlier round, the petitioner has admitted the uploading of the videos and stated that due to some circumstances he has been suffering from mental depression and his mind was not stable, and he has done the same unknowingly in a regrettable fashion. The said contention was seriously objected by the respondent police as well as the defacto complainants who have intervened in the bail petitions stating that, the petitioner uploaded all those videos deliberately to malign the institution, the Hon'ble Judges, the judicial system as a whole and threatened to undermine the system. They have also produced the transcribed text of the video content of the speeches of the petitioner.

5. This Court after considering all those materials, dismissed the bail petitions holding that, there are prima facie and reasonable grounds to believe that the petitioner has committed the offence and the gravity of the offence committed by the petitioner is very serious. This Court also came to the conclusion that the statements made by the petitioner in the videos were made in a clear state of mind and the petitioner uploaded the videos being fully aware of the consequences of his action and also the nature of the offence he was doing. Apart from that, this Court considering the past conduct of the petitioner, has held that, there is every likelihood the petitioner would repeat the offence in the event he is released on bail. At that stage, the investigation was pending and the petitioner being an influential person, there was every possibility of interfering with the investigation and tampering with the evidence and influencing the police officials. The relevant portion of the order reads as follows:

"43. Keeping those principles in mind and considering the materials available on record, this court is of the considered view that there are prima facie and reasonable grounds to believe that the petitioner has committed the offence and the gravity of offence is also very serious. The investigation is, except in one case, still pending in all other cases. Considering the past conduct of the petitioner, this court has every reason to believe that there is likelihood of the petitioner repeating the offence in the event of releasing him on bail. On considering the past conduct of the petitioner, this court is unable to accept the undertaking given by the petitioner.

44. Now, it is stated that out of 10 cases, investigation was completed in only one case and final report was filed and the investigations are still pending in nine other cases, out of which, in one case, the petitioner is said to have barged into the house of a Honourable Judge of Supreme Court of India. The complaint in that case is a poor security personnel and the other important witnesses are residents of the apartment. The petitioner is none other than the former Judge of this court and High Court of Calcutta. He is also founder president of a political party and appears to be a very influential person. Considering the position held by the petitioner as a constitutional functionary and he being a very influential person, this court is of the view that if the petitioner is released on bail, at this stage, there is every possibility of the petitioner interfering with the investigation and tampering with the witnesses and influence the officials. Keeping in view of the above said facts, this court is not inclined to consider the request for bail to the petitioner at this stage."

6. Once again, the present petitions have been filed seeking bail, stating that the petitioner had under gone severe mental depression, the petitioner, his wife and son have separately filed undertaking affidavits tendering apology for the act done by him. The petitioner also given an undertaking that he will not repeat the offence again. Apart from that, it is also stated that the alleged offence committed by the petitioner are not very serious in nature and because of the fact that the statements were made against higher judiciary, it cannot be taken as a serious offence. The apprehension that he may interfere with the investigation in view of his influential position, is without any basis, and if any such thing happen, the situation can get remedied.

7. In the bail petitions, the petitioner has also given an undertaking that he would not make any statements or release any videos and if he does so, the bail may be cancelled without giving any notice. The petitioner further undertakes that he will not interfere or tamper with the evidence and would fully co-operate with the investigation. The relevant portion is extracted hereunder:

"12. In the circumstances, the petitioner is giving an undertaking that he would not make any statements or release any videos and if he does so, the bail may be cancelled without giving a final notice and further, would undertake that he will not interfere or tamper with the evidence and would fully co-operate with the investigation, if not completed by now."

8. Apart from that, the petitioner has also filed a common sworn in affidavit regretting for releasing such videos, which was under the circumstances beyond his control, and tendered his unconditional apology to all concerned, further, he also undertakes that he will not release any such videos or postings in any platform in future. The relevant portion of the affidavit is extracted hereunder:

"3. I submit that my earlier petition and affidavit I have expressed regret for the release of the videos and I have expressed my willingness to tender an unconditional apology to all concerned. I reiterate my regret for release of such videos which was under circumstances beyond my control and I tender an unconditional apology to all my brothers and sisters in the higher judiciary as well as to their family members and the members of the Bar and I undertake that I will not release any such videos or posting in any platform in the future."

9. The respondent police filed detailed objections for grant of bail stating that, after the dismissal of the earlier bail petitions, the petitioner initiated a complaint dated 06.03.2021, before the learned III Metropolitan Magistrate, George Town, Chennai, making allegations against the police officers who are investigating the cases, as if they have abused the petitioner by his caste name, and suitable proceedings has to be initiated against the said officers. He has also alleged human rights violation against them.

10. It was also stated that investigation is still pending and final report in some of the cases are yet to be filed and enlarging the petitioner at that stage would seriously affect the investigation and derail the prosecution. If released on bail, the petitioner would use his stature of various folds to thwart the due process of law.

11. Bar Council of Tamil Nadu and Puducherry, the Intervenor, also filed a counter affidavit stating that the petitioner has deliberately made utterances in his videos against the Hon'ble Judges of the Supreme Court of India and this High Court. Apart from attacking the Hon'ble Judges and their family members, the petitioner has made vulgar statements against the judicial system as a whole and threatened to undermine it and it had definitely affected the Majesty of Law and the legal process.

12. It is further stated that the petitioner has started a political party and misusing the social media platform and malign the judiciary as a whole cannot be belittled by pretence of regret. The vulgar videos are matter of record and the conduct of the petitioner cannot be taken lightly and the apology should not be accepted.

13. Mr.G.Rajagopalan, learned senior counsel appearing for the petitioner would submit that, all the videos have been uploaded in a depressive mood and it is not intentional, now the petitioner is regretting for his action and he has already tendered his unconditional apology. The petitioner has also filed two affidavits tendering apology and also undertaken not to repeat the offence. That apart, his wife and son also have filed separate affidavits tendering apology and that they will ensure that the petitioner will not make any such statements or release such videos in future. He further submitted that after releasing him on bail, if the petitioner repeat the offence, this Court can cancel the bail at any time.

14. The learned senior counsel further submitted that the health condition of the petitioner is getting worse and he requires treatment for his physical as well as mental ailment. He is in jail for more than 110 days. Since the allegations made in all the complaints are one and the same, in one case investigation completed and final report has been filed, and the investigation going to be the same in other cases also. Hence, the petitioner cannot be detained on the ground of pendency of investigation.

15. The learned senior counsel also placed reliance on the judgments of the Hon'ble Supreme Court and contended that bail cannot be denied only on the ground that the petitioner made statements against the members of the higher judiciary and the sentiments of legal fraternity is against the accused and it amounts to clear discrimination.

16. The learned senior counsel further submitted that even though it is alleged that the petitioner is trying to influence the witnesses and hamper the investigation, except vague statements in the counter affidavit, no substantial material has been placed that the petitioner will influence any witness or he will try to interfere with the investigation.

17. Finally, the learned senior counsel submitted that considering the health condition of the petitioner and also the undertaking affidavit filed by him and his family members and also considering the period of incarceration suffered by the petitioner, he may be released on bail.

18. The learned Additional Public Prosecutor appearing for the respondent police submitted that, out of 10 cases, only in one case investigation has been completed and in the remaining cases investigation is pending. She further submitted that after dismissal of the earlier bail petitions, the petitioner filed complaint before the learned III Metropolitan Magistrate, George Town, Chennai making serious allegations against the investigating officers and other police officials as if they have stolen the jewels from the petitioner's house. The above complaint filed by the petitioner clearly shows that he is intimidating and influencing the police officials from discharging their legal duty and the petitioner if released on bail, he will continue to interfere with the investigation

and tamper with the evidence, and his past conduct would clearly indicate that he will repeat the offence. Hence, the learned Additional Public Prosecutor strongly opposed the bail petitions.

19. Mr.S.Prabhakaran, learned senior counsel appearing for the second respondent Bar Council of Tamil Nadu and Puducherry, opposed the bail petitions, and submitted that, the petitioner has deliberately attempted to undermine and threaten the judicial system, abused the Hon'ble Judges of the higher judiciary and their family members, and any amount of apology will not cure the damage done by the petitioner. It is not only the petitioner, a group of persons, under the banner of a political party deliberately committed the offence. Petitioner abused the lawyers, staff members and any one who opposed his conduct, thereby creating a sense of fear among the general public and, any one who come forward to say anything about his conduct. He has not tendered apology by heart and it is only for the purpose of getting bail, and it should not be accepted.

20. The learned senior counsel further submitted that the undertaking given by the petitioner also cannot be relied upon for the simple reason that, the past conduct of the petitioner shows after giving various undertakings, violated the same and committed the offence once again. To support his contention relied upon the judgement of the Hon'ble Supreme Court in the contempt petition initiated against the petitioner and opposed the bail petitions.

21. I have considered the rival submissions.

22. These are second bail petitions filed by the petitioner, earlier bail petitions were dismissed by this Court mainly on the ground that there is a prima facie ground to believe that the petitioner has committed the offence and the gravity of the offence is also very serious. The investigation was also pending, and also considering the past conduct of the petitioner, there is a reasonable belief that the petitioner will repeat the offence in the event of releasing him on bail. That apart, there is a possibility, the petitioner will interfere with the investigation and tamper with the witness and influence the police officials.

23. The petitioner was arrested on 02.12.2020. Now, he is in jail for more than 110 days. Now, the investigation is almost completed and the respondent police is also likely to file the final report shortly.

24. Now the petitioner is seeking bail mainly on health ground that the health condition of the petitioner is getting worse and he requires urgent medical attention. It is also stated that the petitioner is both physically and mentally ill and he requires immediate treatment.

25. That apart, the petitioner has also filed two undertaking affidavits one dated 11.02.2021 and another dated 05.03.2021, wherein, the petitioner had tendered unconditional apology and undertakes that he will not repeat the same offence in future. The relevant portion of the affidavit dated 11.02.2021, reads as follows:

"3. Since, now I realised about the "Supreme Traditions of the Hon'ble Justice System in the Hon'ble Courts at Chennai, etc", I hereby tender my unconditional apology for having uttered bad words against the Judiciary in the State Capital at Chennai;

4. However, I hereby undertake that "hereafter I will not repeat the same offence or involve in any bad antecedents against me" in future;

5. Hence, I pray that may be considered for my release from prison at Chennai and I may be set at liberty to do my house hold things and to keep up my health conditions, etc;

6. I will not give any bad reports against the Judiciary in the State or against the Hon'ble Court traditions, etc and on the other hand I will keep up my promptness & silence in the above matters and I will mend my ways and manners and behaviours etc."

26. In the another affidavit filed on 05.03.2021, he has stated as follows:

"3. I submit that in my earlier petition and affidavit, I have expressed regret for the release of the videos and I have expressed my willingness to tender an unconditional apology to all concerned. I reiterate my regret for release of such videos which was under circumstance beyond my control and I tender an unconditional apology to all my brothers and sisters in the higher judiciary as well as to their family members and the members of the Bar and I undertake that I will not release any such videos or posting in any platform in the future."

27. That apart, earlier the wife and son of the petitioner also filed undertaking affidavit dated 06.02.2021, expressing their regret for the act done by the petitioner and also assured that they will ensure that the petitioner will not make any statement or release any videos and also give security for the petitioner.

28. The above affidavit filed by the petitioner's wife and son was not considered by this Court as the petitioner has not given any such affidavit earlier. Now that the petitioner has filed two undertaking affidavits as stated above. It is also stated that after remanded to judicial custody, the petitioner was infected with COVID-19 virus, and has taken treatment in the hospital and now he is having post COVID-19 complications and his health condition is getting worse and he requires medical treatment. Now the petitioner has also given an undertaking that the petitioner will not interfere with the

<https://hcservices.ecourts.gov.in/hcservices/>

investigation and will not tamper with the witness and if there is any violation of the undertaking given by him the bail granted to the petitioner can be cancelled without any notice.

29. Considering the above circumstance, this Court is inclined to grant bail to the petitioner subject to the following conditions. It is made clear that, if the petitioner violates any one of the conditions imposed by this Court and the undertaking given by him, the bail granted to the petitioner shall stand cancelled:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.50,000/- (Rupees fifty Thousand only) with two common sureties each for a like sum, in which, one surety must be a blood relative, to the satisfaction of the learned III Metropolitan Magistrate, George Town, Chennai, and in Crime No.356 of 2020, before the learned XI Metropolitan Magistrate, Saidapet, Chennai, 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 shall abide by the undertaking given by him before this Court, and he should not release any such videos, or postings, or statements in any print, electronic and social medias as well as in public platforms in future;

(d) The petitioner should refrain from issuing derogatory or abusive statements against the Judiciary as a whole, and the Hon'ble Judges and their family members, lawyers and the staff members of this Registry in any print, electronic and social medias as well as in public platforms in future;

(e) The petitioner, on his release from prison, shall stay at Chennai until further orders;

(f) The petitioner shall report before the respondent police as and when required for interrogation and fully cooperate with the respondent police for investigation;

(g) The petitioner shall not commit any offences of similar nature;

(h) The petitioner shall not abscond either during investigation or trial;

(i) The petitioner shall not tamper with evidence or witness either during investigation or trial;

(j) If the petitioner fails to adhere to any of the above conditions, the bail granted to the petitioner shall stand cancelled.

(k) 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].

(l) If the petitioner thereafter absconds, a fresh FIR can be registered under Section 229A of IPC.

30. The Criminal Original Petitions are ordered, with the above directions.

-sd/-
23/03/2021

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 III Metropolitan Magistrate,
George Town, Chennai.
2. The XI Metropolitan Magistrate,
Saidapet, Chennai.
3. The Principal Judge,
City Civil Court, Chennai.
4. The Chief Metropolitan Magistrate,
Egmore, Chennai - 600 008.
5. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
6. The Inspector of Police,
Central Crime Branch,
Office of Commissioner of Police,
Greater Chennai, Vepery, Chennai 600 007.

7. The Inspector of Police,
Central Crime Branch Team-1,
Vepery, Chennai.
8. The Inspector of Police,
Cyber Crime Cell, Team-13,
Central Crime Branch, Vepery, Chennai.
9. The Inspector of Police,
Central Crime Branch Team-32,
Vepery, Chennai.
10. The Inspector of Police,
Cyber Crime Cell, Team 29,
Central Crime Branch, Chennai.
11. The Inspector of Police,
Cyber Crime Cell, Team 14,
Central Crime Branch, Chennai.
12. The Superintendent of Central Prison-I,
Puzhal, Chennai.
13. The Superintendent of Central Prison-II,
Puzhal, Chennai.
14. The Public Prosecutor,
High Court of Madras, Chennai.
15. THE SECRETARY,
BAR COUNCIL OF TAMIL NADU AND PUDUCHERRY,
HIGH COURT BUILDINGS, N.S.C. BOSE ROAD,
CHENNAI-600 104.

+3CC to M/S.M.RAVICHANDRAN Advocate on payment of necessary charges SR NO.3899

CrI.O.P.Nos.4078, 4077, 4079, 4080,
4081, 4085, 4087, 4088, 4089 and 4090 of 2021

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MK:23/03/2021

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