

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7052 of 2021
and WMP No.7571 of 2021

Tamil Vanan

... Petitioner

Vs.

1. The State of Tamil nadu,
Represented by its secretary,
Department of Home,
Fort St. George,
Chennai 600 009

2. The Superintendent of Police,
Salem District, Salem.

3. The Inspector of Police,
Deevattipatti Police Station,
Salem District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents not to harass the petitioner in Crime No.14/2020 on the file of Inspector of Police, Deevettipatti Police station, Salem District, the 3rd respondent herein to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

ORDER

This Writ Petition has been filed seeking for a direction to direct the Respondent police not to harass the Petitioner in Crime No.14 of 2020 pending on the file of the 3rd respondent.

2.Heard learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.

3.The 3rd respondent police registered an FIR for an offence under Section 188, 120(b), 121, 121A, 124A of IPC and section 10,13, 15, 18 of Unlawful Activities(Prevention) Act, 1967, against six named accused persons. The main allegation that has been made in the FIR is that the accused persons belong to a banned organisation and they participated in a funeral and raised certain slogans. The slogan raised by the accused persons has also been extracted in the FIR. The name of the petitioner has not been mentioned in the FIR. But however it is alleged that his participation was ascertained at a later point of time.

4.The petitioner who is aged about 75 years apprehends arrest by the 3rd respondent. Since the FIR has been registered for an offence under the unlawful activities prevention Act, the right of anticipatory bail will not be available to the accused persons.

5.The learned counsel for the petitioner relied upon the judgement of the Hon'ble Supreme Court and submitted that even if the right of anticipatory bail is not available under the Act, whenever an attempt is made to illegally arrest a person, it involves is a threat to his liberty guaranteed under Article 21 of the Constitution of India and it is always open to a person who apprehends such a arrest to approach this Court and file a writ petition. The learned counsel for the petitioner submitted that the right under Article 226 of the Constitution of India is meant for the protection of the fundamental rights and the same can never be restrained by any enactment. The learned counsel further submitted that the only allegation against the accused persons is that they participated in the funeral and raised slogans. The learned counsel by using an often quoted expression of the privy counsel submitted that "hard words break no bones" and mere usage of certain words in a procession should not result in an arrest of a person. It was further argued that participation of the petitioner in the procession is not even alleged in the FIR and hence, the respondent police must be restrained from illegally arresting the petitioner without any materials.

6.Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsel for the petitioner, there shall be a direction to the petitioner to surrender before the Principal Sessions Court and Special Court and UAP Act, Salem and file a petition for bail. The concerned Court shall consider the same after issuing notice to the respondent police and pass orders on the same day. The petitioner shall surrender before the concerned Court within a period of one week from the date of receipt of copy of this order.

7.This Writ petition is disposed of with the above directions. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rka

To

1. The Principal Sessions Judge,
The Principal Sessions court and special court for UAT Act,
Salem.
2. The State of Tamil nadu,
Represented by its secretary,
Department of Home,
Fort St. George,
Chennai 600 009
3. The Superintendent of Police,
Salem District, Salem.
4. The Inspector of Police,
Deevatipatti Police Station,
Salem District.
5. The Additional Public Prosecutor
High Court, Madras.

सत्यमेव जयते
WEB COPY

WP No.7052 of 2021

GPL (CO)
baf 12/05/2021