

Crl.OP(MD).No.5488 of 2021

M.NIRMAL KUMAR, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 171(E), 171(H) and 506(1) of Indian Penal Code read with Section 67 of Information Technology Act in Crime No.160 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that on 04.04.2021, the District Education Officer, Musiri FST-IIA Team was deputed to election duty. At that time, he had received a video from the social media and in that video, there was a conversation in presence of the petitioner about distribution of money to the voters which is found to be in violence of election laws. Hence, he lodged a complaint.

3. The learned counsel for the petitioner contended that the petitioner/accused is the Principal Secretary of the Party and also a contesting candidate for the general elections in Trichy District. The admitted case of the prosecution is that in the presence of the petitioner, the conversation is said to have taken place and as per Sections 171(E) and 171(H) of Indian Penal Code, a person who actually commits the act is punishable and not the person, who is present at the scene of occurrence. Further, all the offences are bailable in nature except for 506(1) of IPC. Nowhere, in the complaint, it is seen that the petitioner has caused any threat or intimidation to other persons. Hence, he seeks anticipatory bail for the petitioner/accused.

4. The learned Additional Public Prosecutor submits that the Election Officer had independently lodged a complaint against the petitioner. The video which was forwarded is seen. From the video, it is very clear that in the presence of the petitioner, who is the Principal Secretary of a leading Political Party, the conversation about the distribution of money to the voters had taken place, denoting that it had

taken place with concurrence and approval of the petitioner. Hence a case came to be registered. The learned Additional Public Prosecutor submitted that the investigation is under progress and hence, opposed for grant of anticipatory bail.

5. Bribing money to the voters is a serious offence whereby cutting the root of the democracy and free and fair election.

6. Considering the submissions and on perusal of materials, it is seen that except for the offence under Section 506(1) of IPC, all the other offences are bailable in nature. There is nothing to show that the petitioner has caused threat or intimidation to any person. The case itself is that, in the presence of the petitioner, conversation about distribution of money to the voters had taken place. In the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Musri, Trichy, on condition that the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 appear before the committed Court every hearing dates without fail.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

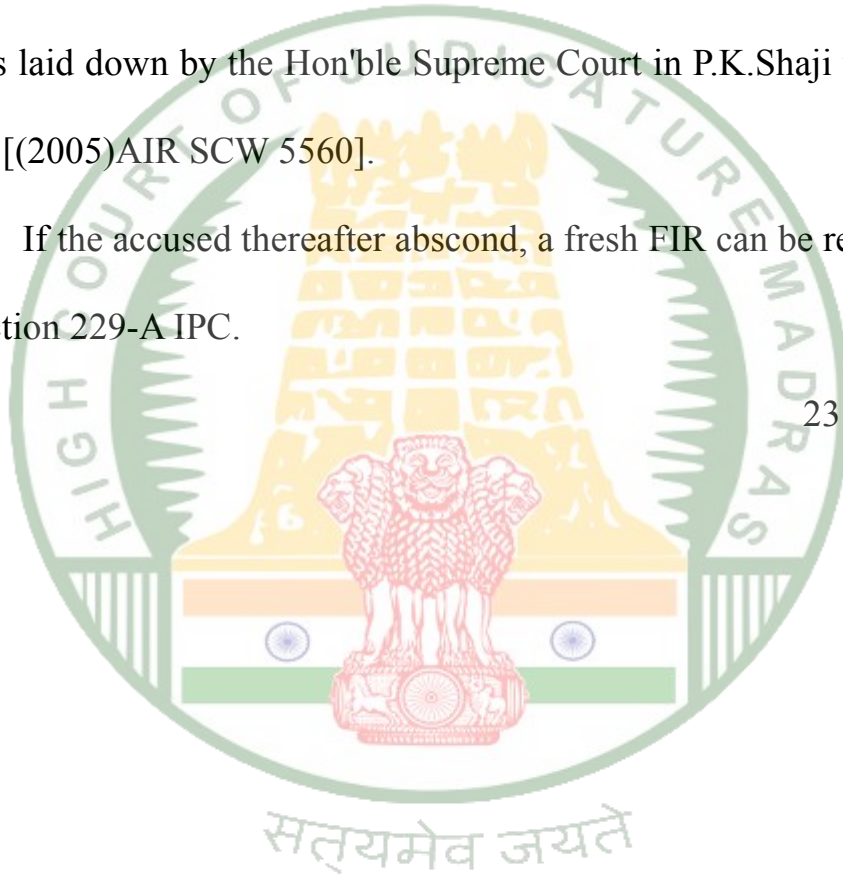
[d] the petitioner shall not abscond either during investigation or trial.

[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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

23.04.2021

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