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Crl.O.P.Nos.22351, 22397, 22401 & 22402 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 353 and 505(i) IPC r/w Section 3 of Tamil Nadu Open place Prevention of Disfigurement Act, 1959 in Crime No.294 of 2022, Sections 153, 504 and 505(i) IPC r/w Section 4B of Tamil Nadu Open place Prevention of Disfigurement Act, 1959 in Crime No.235 of 2022 and Sections 153, 504, 505(i) IPC r/w Section 4B of Tamil Nadu Open place Prevention of Disfigurement Act, 1959, in Crime No.326 of 2022 respectively, seek anticipatory bail.

2.The case of the prosecution is as follows:

(i) Crl.O.P.Nos.22351 & 22401 of 2022: The case of the prosecution as per the Assistant Engineer, Greater Chennai Corporation, Chennai, is that on 11.09.2022, while he was doing his routine rounds in his area, he had seen some persons were pasting posters defaming the



Crl.O.P.Nos.22351, 22397, 22401 & 22402 of 2022

Hon'ble Chief Minister of Tamil Nadu and when he enquired them, they had escaped from the place. Hence the complaint.

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(ii) Crl.O.P.No.22397 of 2022: The case of the prosecution as per the defacto complainant is that one Kathiravan @ Raja who is holding "Paguthi Seyalalar" post in a political party had seen some posters having been printed with an image of Hon'ble Chief Minister of Tamil Nadu. Hence the complaint.

(iii) Crl.O.P.No.22402 of 2022: The case of the prosecution as per the defacto complainant, who is a local secretary of the DMK party, is that on 11.09.2022, he had found some posters of the Hon'ble Chief Minister of Tamil Nadu, which contains wordings that "Verum Pechu Stalin Puzz". The said poster was pasted with an intention to create fear or alarm to the public and thereby, inducing the public to commit offence against the State. The said poster was misleadingly stuck by imitation of popular magazine namely "Junior Vikatan". Hence the complaint.



Crl.O.P.Nos.22351, 22397, 22401 & 22402 of 2022

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3. The learned counsel for the petitioners would submit that the petitioners are practising Advocates and they belong to the BJP political party. He would further submit that the petitioners are innocents and false complaints have been given. Without admitting even assuming for a moment that the petitioners are responsible for sticking of posters around the city, in the poster Hon'ble Chief Minister of Tamil Nadu has not been projected in bad taste and other than political criticism there is nothing to suggest that there was intentional insult with intent to provoke breach of peace or creating enmity hatred or ill will between classes. The petitioners, being members of the Opposition party, are entitled to express their views which is guaranteed under Article 19 of the Constitution of India. He would further submit that the petitioners' act will not come within the ambit of the offences alleged by the respondent police and the co-accused, who have been arrested, had been granted bail by the learned VIIth Metropolitan Magistrate, George Town, Chennai, in Crl.M.P.Nos.9676, 9876, 9852, 9887 and 9851 of 2022 dated 23.09.2022.



Crl.O.P.Nos.22351, 22397, 22401 & 22402 of 2022

WEB COPY

4. The learned counsel for the petitioners would further submit that the petitioners, without prejudice to their rights of defence, have also filed an affidavit of undertaking before this Court, undertaking that not to indulge in any similar offence hereinafter. He would further submit that the petitioners, being Advocates, would co-operate with the respondent police during investigation.

5. Per contra, the learned Government Advocate (Crl. Side) filed his counter affidavit wherein he stated that the petitioners are members of larger conspiracy, and in order to create hatred and ill will against Hon'ble CM among the people, they had committed mischief with an intention to induce the public to commit offence against the State and to create enmity, hatred and ill will between classes. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

6. Heard the counsel. Perused the alleged poster and the affidavit of undertaking.



Crl.O.P.Nos.22351, 22397, 22401 & 22402 of 2022

WEB COPY

7. Taking into consideration the facts of the case and the submissions made by the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the Metropolitan Magistrate Court, No.VII, George Town, Metropolitan Magistrate, Court.No.VIII, George Town and Metropolitan Magistrate Court, No.XVI, George Town respectively, on condition that the petitioners shall execute a separate 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:



CrI.O.P.Nos.22351, 22397, 22401 & 22402 of 2022

[a] the petitioners 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 petitioners shall stay at Madurai and report before the Thallakulam Police Station, everyday at 10.30 a.m for a period of three weeks and thereafter, report before the respondent police on every Monday and Saturday at 10.30 a.m until further orders.

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

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 absconds, a fresh FIR can be registered under Section 229A IPC;

27.09.2022

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