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CrI.O.P.No.24907 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.24907 of 2022

Ilavarasan

... Petitioner

Vs.

The State rep by its
Inspector of Police,
Gingee P.S, villupuram,
Villupuram District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.392 of 2022 on the file
of the Gingee P.S, Villupuram District.

For Petitioner : Mr.G.Babu

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.08.2022, for the offences punishable under Sections 153A(2), 295A, 504, 505(1)(c), 505(3) of IPC, in Crime No.392 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de-facto complainant is that some anti social elements had thrown the bit notices near the Mosque abusing the Muslim religion and also the Muslim ladies in order to create the enmity between the two groups. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner was earlier working in abroad and due to his mental illness, he returned to India and the respondent Police suspecting that the petitioner is the person who has thrown such pamphlets near mosque has arrested him. He would reiterate that the petitioner is suffering from mental illness and he would also state that the



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petitioner's mother undertakes that she will take care of the petitioner. He would further submit that the petitioner has been arrested on based on the suspicion and even assuming that the petitioner is alleged to have done this offence, it is only due to his mental disorder and he is in custody from 26.08.2022 and hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter and the relevant paragraphs are extracted hereunder:-

"7. It is submitted that during the course of investigation, it was informed that father of the accused has passed away and the accused is under the care of his mother Tmt. Valli. The respondent police enquired about the accused family background it was revealed that the petitioner/ accused earlier worked at Qatar in 2008 and Singapore during the year 2018 to March 2022. Further investigation revealed that the accused/ petitioner has no political background.

8. It is submitted that when the accused was produced before the Learned Judicial Magistrate Court, Gingee for remand, a letter dated 25.08.2022 was issued by Dr.D.Punithavathi, Senior Resident Psychiatry, Villupuram Government Medical College wherein it



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shows that the accused is fit to understand the proceedings of the trial and needs continuous treatment for his psychiatric illness. Based on the same the remand Magistrate recorded as follows, that the accused appears in normal state of mind and he is not a mentally retarded person based on the enquiry to the accused and medical report placed on record; Grounds of arrest are explained to him. No complaints of ill treatment against the police. Arrest informed to his mother. On the materials the ingredients of the offences are prima facie disclosed.

9. But whereas when the accused was produced before the Doctor immediately soon after his arrest on 19.08.2022 at Government Medical College Hospital, Villupuram, one Dr.K Gayathiri Duty Assistant Professor [General Medicine], Government Hospital, Villupuram, on examination of the accused diagnosed that the accused is suffering due to Anxiety/Depressive Disorder because of young age Old Cerebrovascular Accident and there is an Incomplete Right Bundle Branch Block and thereafter it was certified that the petitioner/accused is unfit of discharge as observation and further evaluation and management is required.

10. It is submitted that from the statement recorded u/s161(3) Cr.P.C from Tmt.Valli Mother of the petitioner here in wherein she categorically deposed that



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the petitioner was working for about 3 years at Qatar and thereafter at Singapore, c Petro Chemicals. During his course of employment at Singapore, the on completion of his ITI Course in accused suffered illness, whereby he was affected due to slow Movement in his hands and legs and further he was unable to speak Therefore he was under continuous regular medical advice. In this regard the petitioner on account of his medical treatment and was on mental illness was under medication in Siddha Medicine at Viruchigapuram in the State of Andhara Pradesh recently before 2 months, as he is not in stable state of mind"

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner is a mentally affected person and the petitioner is undergoing treatment. He would also submit that he had thrown the pamphlets near the Mosque abusing the Muslim religion and also the Muslim ladies. Based on the complaint given by the de-facto complainant the case has been registered. Hence, he vehemently opposed to grant bail to the petitioner.

6. Heard the learned counsel for the petitioner and the learned



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Government Advocate (Crl.Side) and perused the materials available on record including the materials submitted by the petitioner's counsel.

7. Taking into consideration the facts of the case and the submissions made by the learned counsel, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/-(Rupees Twenty Five thousand only)** with **two sureties** (out of which one surety shall be the mother of the petitioner), each for a like sum to the satisfaction of the **learned Judicial Magistrate, Villupuram**, and on further conditions that:

[a] 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's mother shall file an affidavit stating that she will take care of her son and ensure that he will not indulge in any similar offence;

[c] the petitioner shall not tamper with evidence



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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 absconds, a fresh FIR can be registered under Section 229A IPC;

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To

1. The Judicial Magistrate,
Villupuram District.
2. The Inspector of Police,
Gingee P.S, villupuram,
Villupuram District.
3. The Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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