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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 26/04/2022
RESERVED ON : 28/04/2022
PRONOUNCED ON : 05/05/2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . Nos.7684 and 8029 of 2022

Crl.O.P. (MD)No.7684 of 2022:

Palai Rafi @ Mohamed Rafi ... Petitioner/Accused

Vs

The State represented by
The Inspector of Police,
Melapalayam Police Station, Melapalayam,
Tirunelveli City.
(Cr.No.93/2022). ... Respondent/Complainant

For Petitioner : M/s.Palani Velayutham.S,
Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 93 of 2022 on the file of
the respondent Police.

CRL OP(MD) . No.8029 of 2022:

1. Rajik Mohamed

2. Navab Sha ... Petitioners/Accused Nos.1 & 3

Vs

The State represented by
The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
Crime No. 189 of 2022. ... Respondent/Complainant

For Petitioner : M/s.Jinnah.S.M.A.,
Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)



PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 189 of 2022 on the file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioner in Crl.O.P.(MD)No.7684 of 2022/ Accused No.1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 153, 294(b), 504, 505(1)(c) and 505(2) I.P.C., in Crime No.93 of 2022, on the file of the respondent police, seeks anticipatory bail.

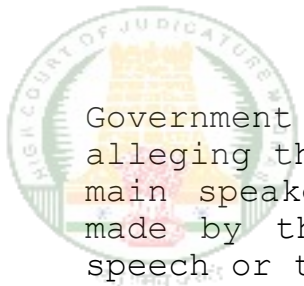
2. The petitioners in Crl.O.P.(MD)No.8029 of 2022/ Accused No.1 and 3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 153, 153A, 504, 505(i)(b) and 505(ii) I.P.C., in Crime No.189 of 2022, on the file of the respondent police, seek anticipatory bail.

3. The first meeting was convened on 18.03.2022 at about 05.00p.m, near Adhiramapattinam bus stand and the second meeting was convened on 20.03.2022 at 11.05a.m., near Nesam Tea Stall, Santhai roundana, Melapalayam. In the first meeting, the second accused in Cr.No.189 of 2022 is shown as State Level main speaker and the accused 1 and 3 are the office bearers of TNTJ party, Tirunelveli, who have convened and arranged the meeting. In the second meeting, the first accused is the State President of MMMK party and the second accused is the District Secretary of the said party, who had arranged and convened the meeting.

4. It is not in dispute that in the second meeting, the second accused who had convened the meeting has already been granted anticipatory bail by the Principal Sessions Court, Tirunelveli in Cr.M.P.No.3269 of 2022, vide order dated 19.04.2022. The main speaker of the second meeting is before this Court. In the first meeting, the petitioners who had convened and arranged the meeting, are before this Court.

5. The learned Counsel for the petitioners in Crl.O.P.(MD) No.8029 of 2022 would submit that the present petitioners have not given any such speech, that they were not in agreement with the speech made by the main speakers and that for the speech made by the main speakers, the petitioners cannot be mulcted with criminal liability.

6. Even according to the prosecution, the main speaker has delivered lengthy speech and admittedly the petitioners were very nervous and did not speak at the meeting. As rightly contended by the learned



Government Advocate (Crl.Side), though the petitioners have been now alleging that they were not in agreement with the speech made by the main speaker, have not taken any steps to cut short the speeches made by the main speaker or to stop them from continuing their speech or to stop the meeting itself.

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7. As rightly contended by the learned Government Advocate (Crl.Side), it is not the case of the petitioners that they have clarified their position or the stand of their organisation in that meeting itself that they were not in agreement with the speeches allegedly delivered by the main speaker and that the above speeches were to be taken as the personal views or opinions of the main speaker.

8. As already pointed out, the petitioners, who are the office bearers of the said organisation in that particular District, have convened the said meeting and invited the speaker to address the gatherings and as such, they were rightly arrayed as accused.

9. No doubt, at the enquiry, the learned Counsel for the petitioners has filed an affidavit sworn by the petitioners that the main speaker Jamal Mohamed Ushmani @ Jamal Mohamed has delivered the speech without their knowledge and they undertook that in future, they will not conduct or organise any such kind of speech meeting with intent to create or promote enmity.

10. Regarding the petition in Crl.O.P.(MD)No.7684 of 2022, the learned Counsel for the petitioner would submit that the petitioner did not have any iota of intention to cause any communal disturbance in the particular area and his alleged speech is not intended and is not motivated, that though the meeting was held on 20.03.2022, there was no following consequences occurred in the particular area and that the present case has been registered out of political pressure. He would further submit that the petitioner is holding a key post in the political party and he is aware of his responsibility in the Society, that he did not cause any threat or violence as against any political party members, other religion and that he is innocent and he has not committed any offence as alleged.

11. As already pointed out, he is the main speaker of the meeting and he has delivered lengthy speech attacking the political leaders and the Judiciary. On considering the speech made in the meeting, it can easily be inferred that they have been attempting to turn a particular community or a particular section of the community against the judiciary.

12. At this juncture, it is necessary to refer the decision of this Court, passed in Crl.O.P.(MD)Nos.5430 and 5513 of 2022, dated 08.04.2022 while dealing with the anticipatory bail petition of similarly placed persons and the relevant passages are extracted



"17. No doubt, everyone can express their view, opinion, or comments or even criticise the judgments of the Courts, but that must be within the limits of reasonable courtesy and good faith. Undoubtedly, the judgments are open to criticisms, but no person can be permitted to overstep the limits of fair, bonafide and reasonable criticism of a judgment.

18. In **Re.Roshan Lal Ahuja's case** reported in **1992(3) SCALE 237**, a three Judge Bench of the Hon'ble Apex Court has held as follows:

However, when from the criticism a deliberate, motivated and calculated attempt is discernible to bring down the image of the judiciary in the estimation of the public or to impair the administration of justice or tend to bring the administration of justice into disrepute the courts must bestir themselves to uphold their dignity and the majesty of law. No litigant can be permitted to overstep the limits of fair, bona fide and reasonable criticism of a judgment and bring the courts generally in disrepute or attribute motives to the Judges rendering the judgment. Perversity, calculated to undermine the judicial system and the prestige of the court, cannot be permitted for otherwise the very foundation of the judicial system is bound to be undermined and weakened and that would be bad not only for the preservation of rule of law but also for the independence of judiciary. Liberty of free expression is not to be confused with a licence to make unfounded, unwarranted and irresponsible aspersions against the Judges or the courts in relation to judicial matters. No system of justice can tolerate such an unbridled licence.

19. The Hon'ble Supreme Court in P.N.Duda Vs. P.Shiv Shanker and Others reported in (1988)3 SCC 167 has observed that the judgments can be criticized, motives to the judges need not be attributed, it brings the administration of justice into deep disrepute and that faith in the administration of justice is one of the pillars on which democratic institution functions and sustains.

.....

24. The Hon'ble Supreme Court, while considering the suo motu case taken by it on the issue of protection of Judges and Courts in the wake of killing of Additional District Judge in the State of Jharkhand, three Judge Bench headed by the Hon'ble Chief Justice has regretted that Judges are not a priority for the investigative authorities and that their complaints are ignored. The Bench has also observed



that there needs to be something effective on ground to prevent terrorism and attack on judges. The Bench has also expressed their concerns that the Judges are being slandered and threatened for failing to issue favourable orders in "high profile cases" and that the Intelligence Bureau (IB) and Central Bureau of Investigation (CBI) do not do justice at all. The Bench has also emphasised the State's obligation to protect judges to ensure they can perform their duties fearlessly.

25. This Court is reminding the respondent authorities of the concerns and regrets expressed by the Hon'ble Supreme Court. It is fundamental that the judiciary has to function independently without any fear. If anyone of the Judges gets fear or apprehension by the threatenings, then the judicial independence would vanish eroding the very edifice on which the institution of justice stands and that the very foundation of the democracy of the Country would crumple."

13. In the present case, as already pointed out, the speakers have exceeded the limits and went to the extent of threatening the judges of the High Courts and Supreme Court.

14. The learned Government Advocate (Crl.Side) would submit that considering the nature and the way in which speeches were made, whether there is any larger conspiracy and who were behind such dangerous speeches are to be investigated.

15. Considering the seriousness and gravity of the offences alleged and also the fact that the petitioners in second case were the organisers of the meetings, in which such open and dangerous threatenings were made and the petitioner in the second meeting, was the person who has made such volatile and dangerous speech and that the investigation is at the initial stage, as stated by the learned Government Advocate (Crl.Side), this Court is not inclined to grant anticipatory bail to the petitioners.

16. In the result, both the Criminal Original Petitions are dismissed.

sd/-

05/05/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE INSPECTOR OF POLICE
MELAPALAYAM POLICE STATION, MELAPALAYAM,
TIRUNELVELI CITY.
- 2 THE INSPECTOR OF POLICE,
ADIRAMPATTINAM POLICE STATION, THANJAVUR DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) . Nos.7684
and 8029 of 2022
Date :05/05/2022

SS/VR/SAR:II/10.05.2022 : 6P/4C