



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 06/05/2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice M.S.RAMESH

CRL OP(MD) . No.8765 of 2022

Rahamathullah

... Petitioner/Accused

Vs

The Inspector of Police,
Thallakulam Police Station,
Madurai
City,
(In Crime No.223 of 2022).

... Respondent/Complainant

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

For Respondent : M/s.A.Thiruvadi Kumar
Addl. Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.223 of 2022 on the file of the Respondent Police

ORDER : The Court made the following order :-

On 17.03.2022, at 17.30 hrs., a meeting was convened at Goripalayam Mosque street, Madurai Town by the Tamil Nadu Thowhith Jamath (in short 'TNTJ'). The meeting was convened apparently to protest against the recent judgment of the Karnataka High Court, upholding the ban of Hijabs imposed by the State Government in educational institutions.

2. The petitioner herein, who is the State Audit Committee member of TNTJ, was the key speaker in the meeting and his speech suggested for promotion of enmity between different groups, on grounds of religion, etc., apart from inciting for commission of offence against the public in general and the Judges of the Hon'ble Supreme Court and the High Courts in particular. This resulted in registration of a criminal case against the petitioner herein and two others under Sections 153(A), 505(1)(b), 505(1)(c), 505(2), 506(i) and 109 IPC. In consequence to the registration of the crime, the petitioner herein was remanded to judicial custody on 20.03.2022.



3. In the speech addressed by the petitioner herein, he made a reference to the death of an Additional District Judge of Dhanbad District, Jharkand State, who died when an auto ricksaw ran over him and which, the petitioner suggested was an intentional murder. Referring to this incident, the petitioner in unequivocal words, suggested that in view of the verdict pronounced by the Karnataka High Court upholding the ban on Hijab, the Judges of the High Courts and the Hon'ble Supreme Court are likely to face similar consequences.

4. I had the occasion to watch the video clipping of the speech of the petitioner herein in the social media. The entire speech incites enmity and revenge on the Hon'ble Judges, in general. On an overall appraisal, the offences under Sections 153(A), 505, 506(i) and 109 IPC have been clearly made out and therefore, the respondent had rightly registered the crime against the petitioner and two others under these sections. The offences, thus having been made out, requires to be sternly dealt with. Since the investigation is still pending, the law will takes its own course.

5. The petitioner now seeks for release on bail, by admitting his guilt and offering an unconditional apology, through a duly sworn in affidavit dated 06.05.2022, attested by the Jailor of the Central Prison, Madurai. The petitioner has accepted that he will publish a public apology in the newspapers, in accordance with the affirmations in his affidavit.

6. Apart from the apologetic plea, the learned counsel for the petitioner did not raise any legal grounds, seeking for grant of bail. On the other hand, the learned Additional Public Prosecutor, submitted that the provocative speech clearly attracts the provisions under the Indian Penal Code, for which, the petitioner has been implicated and therefore, submitted that since the investigation is still pending, the petitioner should not be released on bail.

7. The affidavit filed by the petitioner dated 06.05.2022 reads as follows:

I, Rahamathullah, son of Rizvanulla, Muslim aged about 38 years, residing at D.No.234/1, Angappan Street, Mannady, Chennai and now lodged at Central Prison, Madurai as Remand prisoner and do hereby solemnly affirm and sincerely state as follows:

1.I respectively submit that I am the petitioner in Crl.O.P.(MD) No.8765 of 2022 and well acquainted with the facts of the case and as such I competent to swear this affidavit.

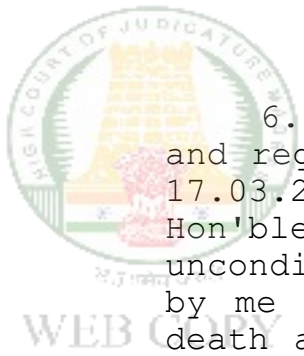


2.I respectively submit that I have filed bail petition in Crl.O.P(MD) No.8765 of 2022 for seeking bail in Crime No.223 of 2022 for the alleged offence u/s.153(A), 505(1)(b), 505(1)(c), 505(2), 506(1) & 109 of IPC on the file of the respondent police station and on 20.03.2022 I surrender before the Superintendent of Police, Tirunelveli and thereby I was remanded into judicial custody on 20.03.2022 and for the past 49 days I was incarceration inside the Central Prison, Madurai.

3.I respectively submit that the Defacto complainant has lodged a complaint before the respondent police and stated that 17.03.2022 while the de-facto complainant was in patrolling duty protest which was conducted near Goripalayam Dharga at that time Tamilnadu Thowhith Jamath organized the demonstration and criticize the judgment passed by the Karnataka High Court in Hijab issue. During the demonstration I spoke that I would threaten the Hon'ble Judges and Central Government that the judgment is biased one under the influence of BJP, RSS and abet the Public to conducting struggle against Central Government and threaten the Government, if they fail to withdraw the prohibition order of the Hijab in educational institution, the Government would face the troubles. Hence in regard this occurrence defacto complainant lodged a complaint and this instant FIR was registered by the respondent police.

4.I respectively submit that I am having one son namely R.Akthan who was aged about 13 years and my son was died in electrocuted accident before one year of this occurrence. In this regard I was physically and mentally disturbed and also I was in the stage of deep depression in order to come out to the normal stage after my son death.

5.I respectively submit that I am one of the State speaker of TNTJ party and while the matter is being so, on 17.03.2022 I delivered the speech near Goripalayam Dharga, Madurai while protesting Hijab wear at the educational institute at Karnataka and at the time my speech is against the Hon'ble Judges of Karnataka High Court and other court stating that the killing of Jharkhand State District Court Judge while he was walking in a road by hitting by auto on this like, the Hon'ble High Court Judges of Karnataka and Apex Court judges were possibility to kill. My intention is not like that it would happened by some other rival political party, but the blame would foist against the Muslim minorities. Moreover I spoke without any mens rea or without any intention in view of the banning order of the Karnataka Government to wearing Hijab in educational institution it would affected the education carriers of Muslim women students on account of this hate and emotional speech against the Hon'ble Judges without any intention, though it is ultimately false one then only I realize my



6. I respectively submit that I am sincerely realize and regret for the hate and emotional speech held by me on 17.03.2022. If my speech is insulting or hurting the Hon'ble Judges, I would really regret the same and tender unconditional apology. This hate speeches only delivered by me in view of the confused mind on account of my son death and affected the carriers of Muslim women's students in the Karnataka Educational Institutions. Further I am willing to tender my unconditional apology by way of given an apology statement in any one of the Vernacular Daily Newspaper and on social media.

7. I respectively submit that I really fact that about my objectionable speech and I undertake that in future I never conduct or participate or organize any such kind of speech meeting against the Hon'ble Judges and Indian Judiciary.

8. I respectively submit that in view of the said affirmation, I swear this affidavit herein. Furthermore this Hon'ble Court may please to enlarge me on bail in Crime No.223 of 2022 on the file of the respondent police station.

Therefore, it is most respectfully prayed that this Hon'ble Court may be pleased to accept my undertake unconditional apology by way of filing this affidavit in Crl.O.P.(MD) No.8765 of 2022 and record the same part and parcel of my bail petition and pass appropriate order to deem fit and proper of this Hon'ble Court and thus render justice.

Solemnly affirmed at Madurai this
the 06th day of May, 2022 having
understood the contents of the affidavit
and read over the same from English to
Tamil in presence of the prison officials
of the Central Prison, Madurai and signed.

Sd/-
BEFORE ME

Sd/-
Jailor
Central Prison,
Madurai."

8. In the aforesaid affidavit, the petitioner herein has admitted of having made the provocative speech and has also tendered his unconditional apology. When I had pointed out to the learned counsel for the petitioner that the affidavit does not, in explicit terms, admits the guilt of the petitioner, Mr.S.M.A.Jinnah, learned counsel for the petitioner submitted, not by way of a concession from the counsel, but under specific oral instructions, that the petitioner admits and pleads his guilt and that he feels sorry for his provocative speech. The learned counsel also agreed to publish the substance of the petitioner's affidavit pertaining to his apology and undertaking.

9. The speech of the petitioner has reached the four corners of the globe, as well as abroad. Now that the petitioner has



admitted his guilt and has expressed his regret and tenders his apology, I intend to consider his apology, not for the sake of granting bail to him alone, but to make the world known, that the petitioner regrets for his mischief.

10. What has been done, requires to be undone. When the speech was made public, the apology also deserves to be made public.

11. In this background, I am of the view that if the admission of guilt and the apology tendered by the petitioner is made public by him, the intensity of the situation created by him, could be alleviated. Simultaneously, the petitioner can also be subjected to stringent conditions of bail to prevent him from making any other speeches that might intimidate any section of the public. Thus, by accepting the petitioner's affidavit dated 06.05.2022, this Court is of the view that the petitioner be directed to issue a public apology in terms of the statements made in his affidavit, which publication shall contain the substance of his affidavit in the following manner:

"PUBLIC APOLOGY

Petitioner's
photograph

I, Rahamathullah, S/o.Rizvanulla, member of the State Audit Committee of TNTJ, admit that I had given a provocative speech on 17.03.2022 at 17.30 hrs., at Goripalayam Mosque Street, Madurai Town, in which, I had made a reference to the death of the learned Additional District Judge of Dhanbad District and clearly insinuated that a similar situation would follow for the Judges of the High Courts, who gave the verdict in the Hijab ban case, as well as the Judges of the Hon'ble Supreme Court, if they don't set right the Hijab ban affair.

I also appeal to every member of the Society to not to act upon my words in my speech.

I regret of my speech, whereby, I had intimidated the Hon'ble Judges of the Hon'ble Supreme Court of India and the High Courts in India.

I hereby tender my unconditional apology to all the Hon'ble Judges of the Supreme Court of India and High Courts in India.

I further affirm and undertake that I will not henceforth conduct or participate or organise any kind of meetings by commenting against the Hon'ble Judges of the Hon'ble Supreme Court and High Courts of India.

11. In the result, the petitioner herein is ordered to be released on bail, subject to the following pre-conditions:



(a) The petitioner shall cause a publication of the extract in Paragraph:11 of this order, along with his clear passport size colour photograph, appended to the publication;

(3) The publication referred above shall be made in one English Daily having national circulation, namely, The Times of India, as well as in one Tamil Daily, namely, Daily Thanthi. The publications referred herein, shall not be less than a quarter page of the two newspapers referred above ; and

(4) The petitioner shall also upload a copy of the aforesaid public apology in the social media viz., You Tube, along with his photograph.

12. The respondent police shall ensure that the aforesaid publication to be given by the petitioner is a true extract of the Public Apology extracted in Paragraph No.11 above and the petitioner shall not add, substitute or cut any of the words or phrases or sentences in the same.

13. On satisfaction of the aforesaid preconditions, the petitioner shall be released on bail subject to the following conditions:

(a) The petitioner shall produce a copy of the publication of the apology before the Judicial Magistrate, No.II, Madurai, and satisfy that the publication is in accordance with the format given in Paragraph No.11;

(b) The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, No.II, Madurai;

(c) 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 ;

(d) The petitioner herein shall reside at Madurai City and report before the respondent police every day at 6.00 p.m. until further orders ;

(e) The petitioner herein shall not participate or address any public meetings whatsoever, until the completion of the investigation and filing of the final report in Crime No.223/2022 by the respondent police.

(f) The petitioner shall not leave Madurai City limits until further orders. The petitioner shall surrender his original passport before the Judicial Magistrate, No.II.

(g) The petitioner shall not tamper with the evidence or witnesses either during investigation or trial.

(h) the petitioner shall not abscond either during investigation or trial.

(i) 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



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].

(j)If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

WEB COPY

sd/-
06/05/2022

/ TRUE COPY /

09/05/2022

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

RR

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 JUDICIAL MAGISTRATE NO.II,
MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE
THALLAKULAM POLICE STATION,
MADURAI CITY
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.8765 of 2022
Date :06/05/2022

SS/VR/SAR:II/09.05.2022 : 7P/6C