



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 25/07/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.12499 of 2022

and

CrI.M.P. (MD) No.8237 of 2022

H.Jannath

... Petitioner/Sole Accused

Vs

State rep.by
The Inspector of Police,
Pettai Police Station,
Tirunelveli City
(Crime No.142 of 2022).

... Respondent/Complainant

For Petitioner : Mr.Lajapathi Roy.T, Advocate.

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (CrI.Side)

For Intervenor : Mr.R.Gowri Shankar, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.142 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner is facing charges under Sections 153A, 504, 505 (1)(c), and 505(2) IPC in Crime No.142 of 2022 on the file of the respondent police.

2.The case of the prosecution in brief is as follows:-



3.The defacto complainant lodged a complaint stating that on 17.06.2022 at about 06.00 pm., the accused person delivered public speech in a protest stating that the North India is under fire and if one hour is given to them, they will do away the Sangi people and thereby, created enmity between the two religious people. She also made criminal threat.. Because of the aforesaid speech, tension prevailed in that area. So, on the basis of the complaint given by the defacto complainant, the aforesaid case was registered.

4.Seeking anticipatory bail, this petition has been filed on the ground that the aforesaid meeting was organized to condemn the speech, which was delivered by one Nupur Sharma, who belongs to a political party, regarding the Islamic religion. After her speech, there was tension in North India.

5.It has been stated by the petitioner that the speech was delivered without any intention to create any enmity between the two religious people. She was only against the undemocratic people. What she expressed is only her personal view, which comes under the permissible limit under Article 19 (1)(a) of the Constitution of India.

6.Heard the learned counsel on either side.

7.The intervenor is also present, who has filed a detailed information with regard to the previous cases that are pending against the petitioner and others.

8.The petitioner is facing criminal prosecution in Crime No.42 of 2022 for the offences punishable under Sections 143 and 283 IPC on the file of the Eruvadi Police Station, Tirunelveli District. Similarly, the petitioner is also facing criminal prosecution in Crime No.144 of 2022 for the offences punishable under Sections 143, 341, 290, 291 and 353 IPC on the file of the Tenkasi Police Station, Tenkasi District.

9.According to the intervenor, the petitioner is having a habit of delivering hate speech and thereby create the trouble between the two religious people, which is danger to the public peace. So, according to the intervenor, such person should not be granted anticipatory bail. If anticipatory bail is granted, there is no guarantee that she will will not commit any such crime in future.

10.In response to the aforesaid argument, the learned counsel for the petitioner would submit that the petitioner has filed an undertaking affidavit to the effect that she will not make any such offence in future and she will try to promote harmony among the people. This was the undertaking that was given by this petitioner. So, the question, which arises for consideration, is whether on the basis of the undertaking that has been given by this petitioner, anticipatory bail application can be considered.



11.As stated in the petition, it appears that the protest was organized to condemn the speech of the aforesaid speaker of a political party. Tension prevailed in North India and one supporter of the aforesaid Nupur Sharma was done to death by the opposite party. This is the background of the issue.

12.It is very unfortunate to note that such sort of hate speech is on the rise in the recent past, which gives rise for unnecessary trouble among the people. The hate speech invariably leads to causality. It is the duty of the Court to make the following observations in the aforesaid issue that has been raised by this petitioner.

13.It is nothing but a retaliative speech that was made by this petitioner to the speech that was delivered by the aforesaid Nupur Sharma. As I mentioned earlier, often, it leads to unnecessary trouble to the public peace and tranquillity. The history shows that number of people killed maimed, orphaned in the name of religion for exceeds the damage caused due to World War 1 and 2. But it appears that the people are not realizing the reality and has not learnt nothing from the history. In the observation that was made by this Court in the recent past while disposing of a batch of Criminal Original Petitions, which were filed seeking quashment, such offence is worth considering.

14.It has been observed by this Court to the effect that every religion, every law and every ethics want to promote the human value. Human race scientifically evolves in another direction. But the incident like this hate speech are down-pulling the human evolution. Above the law, above the religion and above the ethics, what matters to humanity is human values.

Human value is loosely defined as under:

"Human Values, are, for example, respect, acceptance, consideration, appreciation, listening, openness, affection, empathy and love towards other human beings.

It is with those human values that one becomes truly able to put into practice his/her ethical values, such as justice, integrity, refusal of violence and ban to kill even in a crisis situation.

Human values convey a positive and affective surge, which reinforces the rationale of moral values. They are the values that permit us to live together in harmony, and personally contribute to peace.



Human values are a tool to manage human relations and a tool for peace when the tension is high."

15. Suffice to say that hereafter the petitioner may correct herself, so that, she may work in future towards improving the human values. So, on the basis of the undertaking that has been given by this petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

16. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on her appearance, before the learned Judicial Magistrate No.V, Tirunelveli 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 learned Magistrate concerned and the petitioner shall appear before the respondent police daily at 10.30 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. If any violation is noticed and if any new case is registered against the petitioner, then the anticipatory bail that has been granted by this Court in this petition will stand automatically cancelled without further reference to this Court and she has to face the consequences.

17. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
25/07/2022

/ TRUE COPY /

/08/2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MM

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.



1. THE JUDICIAL MAGISTRATE NO.V,
TIRUNELVELI.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3. THE INSPECTOR OF POLICE,
PETTAI POLICE STATION,
TIRUNELVELI CITY.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S LAJAPATHI ROY.T Advocate SR.No.7668

ORDER
IN
CRL OP(MD) No.12499 of 2022
Date :25/07/2022

SP/SVR/SAR II/01/08/2022/5P/6C