



Crl.O.P.No.5699 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 153, 505(1)(b) and 506 of IPC in Crime No.84 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Palani, Sub Inspector of Police, Triplicane Police Station, is that on 21.02.2023, the members of BJP parties had conducted demonstrational fasting near Omandurar Multi Speciality hospital, during such time, the accused who is an ex-army Colonel had rendered a provocative public speech with intent to incite riot and violence are against the Government of Tamil Nadu and also sovereignty of the state and his statement was intended to create fear in the minds of people. Hence, the complaint.

3. Mr.R.C.Paul Kanagaraj, learned counsel appearing for the petitioner would submit that the petitioner is an ex-army man and he was a Colonel in the Indian army and he had attended the agitation organised by the



Crl.O.P.No.5699 of 2023

Tamil Nadu Bhartiya Jantha Party against the brutal murder of a military men

and during such time in anxiety he has given such a speech. He further submitted that the petitioner has not addressed the gathering with an ill intention to provoke or incite violence or to create law and order problem. He would further submit that the petitioner is an ex-army personnel and in his anxiety he has given the speech and it was not intentionally done. He would further submit that the meeting was conducted after obtaining permission and after the speech no untoward incident had happened. However, he would further submit that the petitioner ought to have acted in the responsible manner in the meeting and unable to control his emotions he has rendered the speech. He further submit that the petitioner has also filed an affidavit of undertaking before this Court rendering his conditional apology for the speech made by him on 21.02.2023 and he has also given an undertaking that he will not deliver any speech in the line of the above levelled allegations in future and that he undertakes to maintain the decorum and discipline of the ex-servicemen and assures to continue to do his service to the Nation. He further submit that the petitioner has no previous case against him and thereby he seeks for



Crl.O.P.No.5699 of 2023

anticipatory bail to the petitioner.

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4. The learned Government Advocate (Crl.Side) would submit that during the hunger fast meeting organised by the Tamil Nadu Bhartiya Janta Party, the accused had rendered provocative speech to incite violence. He further submit that the petitioner being an army personnel ought not to have behaved like that and he had attempted to incite violence between the members of different political parties and thereby he opposed for the grant of anticipatory bail.

5. Today, the petitioner is present before this Court. He has filed an affidavit of undertaking. The relevant portion reads as follows: “I tender my unconditional apology for the speech said to have been spoken by me on 21.02.2023 as narrated in Cr.No.84 of 2023. I undertake that I will not speak anywhere in the line of the above levelled allegations in future. I also undertake that I will keep the decorum and discipline of an ex-servicemen and I assure I will continue to do my service to the nation. I regret the same and I will not repeat in future”.

5.Heard the learned counsel on either sides and perused the entire



Crl.O.P.No.5699 of 2023

materials available on record.

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6.Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsel on either side and also the affidavit of undertaking filed by the petitioner and the expression of remorse and apology, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned II Metropolitan Magistrate, Egmore, Chennai on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, 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:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond



Crl.O.P.No.5699 of 2023

and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m, for a period of one week and thereafter as and when required for interrogation;

[c] the petitioner shall not tamper with evidence 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;

27.03.2023

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Page 5 of 6



WEB COPY



Crl.O.P.No.5699 of 2023

A.D.JAGADISH CHANDIRA. J.

drl

Crl.O.P.No.5699 of 2023

27.03.2023