

THE HONOURABLE SRI JUSTICE M.LAXMAN

CRIMINAL PETITION NO.4898 OF 2023

ORDER:

1. This petition is filed seeking anticipatory bail under Section 438 of Criminal Procedure Code, 1973 (Cr.P.C). The petitioner is accused No.3 in Crime No.65 of 2023 of Mustabad Police Station, Rajanna Sircilla District. The offences alleged against the petitioner are under Sections 153 A, 143, 341, 504 and 505 (1) (c) read with Section 149 of the Indian Penal Code and Section 67 of Information Technology Act, 2000.

2. The sum and substance of the case of the prosecution is that the members of Bharatiya Janata Party including the petitioner herein allegedly gathered on the road and allegedly tried to put garland of 90 ML liquor bottles to the portrait of the Hon'ble Chief Minister and his son. In this regard, there were disputes between two political parties. The said act was put on Whatsapp, which created enmity between two groups. Basing on the said allegation, a complaint was lodged by the President of local Bharat Rashtra Samithi party. On the basis of such complaint, the present crime was registered by the police.

3. It is contended by the learned counsel for the petitioner that even if the allegations are considered to be true, the same will not attract

offence under Section 153 A of IPC. It is also contended that there is no criminal restraint on the complainant and the case has been registered on account of political rivalry.

4. Learned Public Prosecutor opposed the grant of anticipatory bail to the petitioner.

5. *Prima facie*, this Court feels that even if the allegations made in the complaint are admitted to be true, there is no promotion of enmity between two different groups on ground of religion, race, place of birth, residence, language, etc., which is essential to attract offence under Section 153 A of IPC. All the other offences alleged in the crime are bailable offences. In the said circumstances, the request of the petitioner/accused No.3 can be accepted.

6. Accordingly, the Criminal Petition is allowed on the following terms and conditions:

(i) The petitioner/accused No.3 is enlarged on bail in the event of his arrest in connection with FIR No.65 of 2023 on the file of the Station House Officer, Mustabad Police Station, Rajanna Sircilla District, on his executing personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties to the like sum each to the satisfaction of concerned Station House Officer.

(ii) The petitioner/accused No.3 shall abide by the other conditions stipulated in Section 438 (2) Cr.P.C and co-operate with the Investigating Officer in investigating the case.

Date: 14.06.2023
GVR

JUSTICE M. LAXMAN