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Crl.O.P.No.32423 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.12.2024

CORAM

THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN

Crl.O.P.No.32423 of 2024

Rangarajan Narasimhan

... Petitioner

Vs.

State of Tamil Nadu
rep.by The Inspector of Police
Delta IV Team, CCD-IV
Central Crime Branch,
Vepery, Chennai.

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, pleased to enlarge the petitioner on interim bail in Crime No.320 of 2024 pending investigation on the file of the Delta IV Team, CCD-IV, Central Crime Branch, Vepery, Chennai.

For Petitioner : Mr.T.S.Vijayaraghavan

For Respondent : Mr.KMD Mugilan
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed seeking to enlarge the petitioner on bail in Crime No.320 of 2024 pending on the file of Inspector of Police, Delta IV Team, CCD-IV, Central Crime Branch, Vepery, Chennai.



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2. The petitioner is the sole accused in the aforesaid Crime Number. This matter was placed before the Hon'ble Administrative Judge for appropriate orders on maintainability. The Hon'ble Administrative Judge directed the matter to be listed before me. Hence, I heard the maintainability.

3. Office raised an objection of maintainability of bail on account of the fact the petitioner did not move the learned Principal Judge, City Civil Court, Chennai prior to moving this Court.

4. Mr.T.S.Vijayaraghavan, learned counsel for the petitioner urged that in terms of Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS), the jurisdiction of the High Court as well as that of the Court of Sessions are concurrent and hence the petition is maintainable. I requested him to serve the entire papers of the the office of the learned State Public Prosecutor.

5. The learned State Public Prosecutor is represented by Mr.KMD Mugilan, learned Government Advocate (Criminal Side). On a query by this Court as to whether the Principal Judge, City Civil Court, Chennai is functioning, he submits that the Principal Judge, City Civil Court is closed for Christmas Vacation.



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6. Considering the circumstances that this is a matter relating to the life and liberty of an individual, I directed the office to number the petition and I heard the matter on merits.

7. The petitioner is accused of offences under Sections 192, 352, 353(1)(b) and 353(2) of the Bharatiya Nyaya Sanhita 2023 (hereinafter referred to as 'BNS') and Section 65 of the Information Technology Act.

8. The complainant is His Holiness Sri Embaar Jeeyar having his Mutt at No.30, Manavalamamuni Koil Veedhi, Sriperumbudur, Kanchipuram District – 602 105. The complaint proceeds that due to the previous acquaintance with the complainant, the accused made a phone call to the complainant. The petitioner surreptitiously recorded the conversation. The conversation related to the alleged incidents that had taken place in the residence of a renowned personality. The complainant alleged that after having surreptitiously recording the conversation the petitioner had edited the conversation and uploaded the same on his You Tube Channel 'Our Temples – Rangarajan Narasimhan'.

9. On account of such uploading, it was picked up by another You Tube Channel – Red Pix Channel. The video that had been projected by the petitioner and



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by two other individuals in the Red Pix Channel had put the complainant in such a situation that he feared for his life and liberty. Apart from that, the complainant states that it amounts to creating divisions in the society, which would have a tendency to cause riots among the followers of the renowned personality as well as the followers of the Mutt. This complaint was registered on 15.12.2024. On the very same day, the petitioner was arrested by the respondent police at his residence in Srirangam.

10. I heard Mr.T.S.Vijayaraghavan for the petitioner and Mr.KMD Mugilan, learned Government Advocate (Crl.Side) for the respondent.

11.Mr.Vijayaraghavan submits that the petitioner spoke to the complainant beseeching him to uphold the tenets of Srivaishnavism. He pointed out that no complaint had been given from any one of the family members of the renowned personality. He adds that the police did not follow the requirements of Section 35 of the Bharatiya Nagarik Suraksha Sanhita 2023 (hereinafter referred to as BNSS). He points out to an order passed by my brother Mr.Justice N.Anand Venkatesh in Madurai, whereby the police had been directed not to arrest the individuals' belonging to the Red Pix Channel. He further points out that when the police had attempted to take police custody of the petitioner, the learned Magistrate refused to grant police custody and dismissed the petition.



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12.Mr.KMD Mugilan states that the idea for uploading the video is not only to malign the fair name of the three renowned Matadhipathis in the State of Tamilnadu, but also the family of the renowned individual concerned. He points out that attempt was made by the police to serve notice under Section 35 of the BNS. The petitioner, instead of receiving the notice, refused to receive the same, leaving no other option to the police, than to arrest him. He states that the following items were seized from the petitioner.

- Samsung Mobile Phone
- Seagate Hard Disk (10 TB) – S.No.NA9QWAZ4
- Tapo Camera – S/N.223CR6004173
- Tapo Camera – S/N.223CR6003569
- MI Camera – S/N.41142077
- Mac iPad – S/No.HY9DXXH750
- Macbook – S/No.FCXDQH3.J2.J
- Roshan Hand Bag
- Cannon EOS 200 DII and its charger

13.Mr.KMD Mugilan points out that it has become a habit of the petitioner to disparage every respectable person and attempt to create divisions in the Society.

14.I have carefully considered the submissions of the learned counsel for both sides.



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15. It is not in dispute that recording the conversation that had taken place between the petitioner and His Holiness Sri Embar Jeeyar had been uploaded on to the You Tube Channel. The said conversation had not only been played once, but also been played again and again. The learned Government Advocate (Criminal Side) was kind enough to play the entire video to me. Though I cannot go into the merits of the case at the time of considering the bail application, I should point out that whatever evidence that the police require for the purpose of investigation is already available with them. The issue is whether custodial interrogation is necessary in the facts of the case. While the petitioner can claim that he is exercising his right of freedom of speech and expression, he should not interfere with the right of another. It is fundamental, any person who joins the law college is aware that of the adage, "my right stops where the other person's nose begins". The petitioner, who claims he is upholding constitutional values, should not have interfered with the right of another person which amounts to breach of right to privacy, which is yet again a constitutional right.

16. I would take the following factors for the purpose of considering this application.

- The notice issued under Section 35 of the BNS was dated 15.12.2024. I should go as per the records of the police, which states that the petitioner / accused refused to receive the notice. However, that does



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not mean the petitioner would not appear before the Investigating Officer on the date on which he has been summoned. The date on which the petitioner was called upon to appear was on 16.12.2024. The police could have waited for 24 more hours and thereafter proceeded to arrest him in case he had not presented himself. The fact that Section 35(3) notice was issued shows that the Investigating Officer did not want to arrest the accused on 15.12.2024. However, they proceeded to arrest him on that date, since the accused refused to receive the notice.

- The request for police custody had been rejected by the learned Magistrate, which shows the Magistrate came to the conclusion that custodial interrogation is not necessary in the facts and circumstances of the case. Yet, he proceeded to dismiss the bail application.
- All the materials, on the basis of which the video had been shot and uploaded, have already been seized by the police. The material objects are in their custody.
- The evidence required is available in the internet and has been downloaded by the police.
- Hence, there is nothing which necessitates custodial interrogation of the petitioner.



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17. In the light of the above discussion, I am inclined to grant bail to the petitioner with certain conditions. Accordingly, he is ordered to be released on bail on his executing separate 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 **XI Metropolitan Magistrate Court, Saidapet, Chennai**, and on further conditions that:

[a] 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;

[b] the petitioner shall report before the respondent Police, everyday at 10.30 a.m. for the first two weeks after his release and thereafter, as and when required.

[c] **the petitioner shall not get in touch with any of the three Matadhipathis or the renowned personality himself or any person belonging to the family of the renowned personality, on the basis of this video either directly or indirectly or through social media regarding the case.**

[d] the petitioner shall not tamper the witnesses.

[e] In addition, the petitioner shall comply with the requirements of Section 480(3)(b) of BNSS and shall not commit similar offences of which he has been accused.



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[f] the petitioner shall not abscond either during investigation or trial;

[g] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***;

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

24.12.2024

KST

Note : Issue order copy today (24.12.2024)

To

1. The XI Metropolitan Magistrate Court, Saidapet, Chennai
2. The Inspector of Police, Delta IV Team, CCD-IV, Central Crime Branch, Vepery, Chennai.
3. The Superintendent, Central Prison, Puzhal.
4. The Public Prosecutor, High Court of Madras.



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V.LAKSHMINARAYANAN,J.

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