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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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(Criminal Jurisdiction)

Dated: 01/09/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)Nos.14855, 14858 and 14861 of 2022

Gokul Ajith : Petitioner in
Crl.OP(MD)No.14855 of 2022/A6

Vengaimaran : Petitioner in
Crl.OP(MD)No.14858 of 2022/A1

Manikandan : Petitioner in
Crl.OP(MD)No.14861 of 2022/
Rank not known

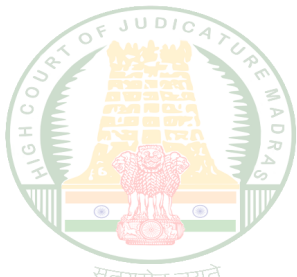
Vs.

The State represented by
The Inspector of Police,
V-2, Avaniyapuram Police Station,
Madurai City,
Madurai.

(In Crime No.498 of 2022) : Respondent/Complainant

For Petitioner : Mr.Niranjan S.Kumar
(in all cases)

For Respondent : Mr.Veerakathiravan
(in all cases) Additional Advocate General
for Mr.B.Thanga Aravindh
Government Advocate
(Criminal side)



PETITIONS FOR ANTICIPATORY BIAL under Sec.438 of Cr.P.C.

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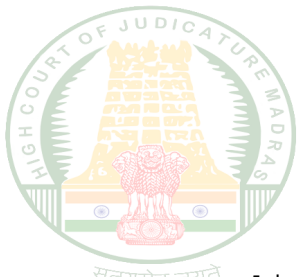
PRAYER:-

C-31AB.For Anticipatory Bail in Crime No.498 of 2022 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order:-

The petitioners, who are arrayed as accused persons apprehending arrest at the hands of the respondent police for the offences punishable under sections 147, 341, 294(b), 355, 353, 506(2) IPC r/w 7(1) of Criminal Law Amendment Act, 1932, altered and added 120(B) IPC and Section 2 of Prevention of Insults to National Honour Act, in Crime No.498 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 13/08/2022 one Lakshmanan, who was a Jawan attached to Indian Army was killed in Jammu & Kashmir and the body arrived Madurai Airport and the State Honour was arranged. At that time, the Finance Minister of the State, District Collector and other Government Officials went to the Airport premises and the de-facto complainant and other



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police officials were put on duty. At that time, one Dr.Saravanan, who is the District President of a political party along with 30 others, assembled in the Airport premises and made quarrel that they must be given first right to pay homage to the deceased military man. The Government Officials, who were present in the Airport stated that the first Honour must be given only by the Government as per the protocol and later, they will be permitted. They were removed from that place by the police team. After arrival of the body of the deceased person, the above said Finance Minister paid homage. After paying the homage, he was returning by his Car. At that time, at about 12.30 pm, all the accused persons, who belong to the above said political party numbering about 30, waylaid the Car of the Finance Minister and abused him in filthy language, tried to cause damage to the car glass and they also criminally intimidated them. Not only that they also thrown slippers towards the car. Based upon the above said occurrence, the case in Crime No.498 of 2022 was registered for the offences punishable under sections 147, 294(b), 341, 353, 355, 506(2) IPC r/w 7(1) (A) of Criminal Law Amendment Act 1932.

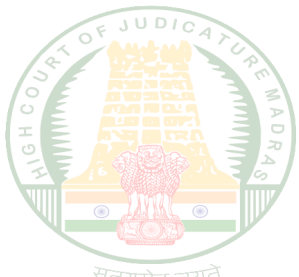


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3. Seeking anticipatory bail, these petitions have been filed by the petitioners, who are holding various official position in the above said political party.

4. Heard both sides.

5. The learned counsel appearing for the petitioners would submit that some of the accused persons have been taken to remand and the concerned Judicial Magistrate, who was on duty refused to remand. Some other accused persons were remanded to custody. The 3rd request for the remand of one accused person was also rejected. They were released on their own bond. So according to him, absolutely, what had happened is nothing, but unfortunate event. Now after refusal of the remand, the police has filed alteration report by altering the offence by including the offence under Section 2 of Prevention of Insult to National Honour Act, 1971 and they are about to arrest the petitioners. He would also submit that as per the judgment of this Court in various cases like that of ***Prabhu Vs. State rep. By the Inspector of Police, Madukkur Police Station, Thanjavur [2021]0 Supreme (Mad) 1361*** and the Hon'ble Supreme court in the case of

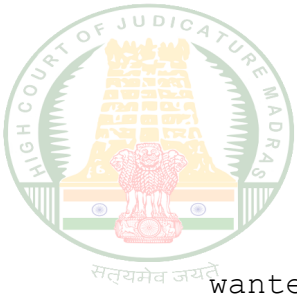


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Prasanta Kumar Sarkar Vs. Ashis Chatterjee and another

(2010)14 SCC 496 for the purpose of argument that the offence that has been alleged against the petitioners are punishable upto 7 years or two years or three years as the case may be, for which the custodial interrogation is not required and no arrest and remand has been required as has been pointed out by the remanding Magistrate in one of two cases. So according to him, some sort of trouble has been created in the place of occurrence. Absolutely, there is no intention to commit any crime. What had happened, as mentioned above, is only an unfortunate event.

6. Per contra, the learned Additional Advocate General appearing for the respondent/State would submit that this case cannot be taken as a routine and normal case, which do not require any arrest and remand. The situation and circumstance under which the present offence said to have been committed by the petitioners must be viewed very seriously. As per the protocol, only the State Government got first right to pay homage to the martyr. Here, demanding first homage right, the petitioners, along with others created trouble. So they



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wanted to overtake the Government's right in paying the homage. Not only they have insulted the Finance Minister by abusing him and by throwing chapels. At the time of the above said occurrence, the car, in which the Finance Minister was travelling, also bearing National Flag. It is not only insult and assault upon the Finance Minister, but is an insult to the National Flag also. According to him, the discretionary relief of anticipatory bail should not be exercised and extended to the people like that of the petitioners and they must be subjected to the course of arrest and custodial interrogation.

7. In reply to the above said argument, it is contended by the learned counsel appearing for the petitioners that absolutely, there was no intention on the part of the petitioners, either to insult the Finance minister or to insult the National Flag. Some sort of provoking words were used by the Finance Minister and that caused tension in that place. Because of provocation only, the occurrence said to have taken place. According to him, the petitioners should not be blamed for the occurrence.



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8.No doubt that what happened is very unfortunate. Political ideologies may differ and must differ also. By that process, only the democracy thrives twist and the society evolves to a new desired polity. But at the same time, while exercising the democratic right, when the same turn violent and ugly, then causality will not be the political opponent, but the society at large which every political party intends to serve and evolve. But here, the decency, morality and ethics have been thrown to wind by the petitioners. They have to regret for it. There cannot be no second opinion on that.

9.In this aspect, what is required to be maintained is the human values, which is loosely defined as under:-

“Human values are the virtues that guide us to take into account the human element when we interact with other human beings.

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



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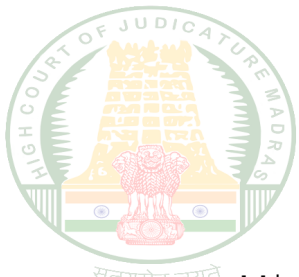
It is with those human values that one becomes truly able to put into practice his/her ethical values, such as justice, integrity, refusal of violence and ban to kill even in a crisis situation,

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 personality contribute to peace.

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

10.The last sentence assumes importance here. Human value matters much above the law, above the politics, what is important is human values. But these things cannot be preached by this Court to the people like the petitioners. They have to maintain it at any cost, in any situation and in any event.

11.So as mentioned earlier, insulting the Finance Minister must be condemned. That cannot be taken as political issue, as rightly pointed out by the learned



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Additional Advocate General. But however considering the fact that what had happened is not a pre-planned one, but at the same time, they must regret for their acts. So, I am of the considered view that these petitions can be considered on filing of affidavits of regret by the petitioners. For filing affidavits of regard by the petitioners, the matter was directed to be listed on 29/08/2022.

12. In pursuance of the direction, that was issued to the petitioners, by order, dated 24/08/2022, an affidavit of regret has been filed by all the petitioners. The copies of same were also served upon the respondent.

13. On going through the affidavits, the learned Additional Advocate General has submitted that the offence of such kind and nature should not be permitted to go free on the basis of the affidavit of regret. The affidavits have been cleverly drafted and no undertaking has been given by the petitioners with regard to the future conduct.



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14. On going through the affidavits, this court is of the view that as directed by this court, they expressed their regret. This court also feels that it is heartfelt one. No doubt, as pointed by the learned Additional Advocate General, such sort of act shall be viewed seriously. Should be avoided in public in any such of situation. He has also expressed fear that if anticipatory bail is granted in like manner by accepting the letter of regret, then it can be taken as precedent in future also. So according to him, such sort of escape route should not be permitted by this court.

15. No doubt the fear of the learned Additional Advocate General is true. But at the time same, as mentioned earlier, it is not a pre-planned one and some unusual happenings had taken place. When the petitioners come forward with heartfelt regret, that must be accepted by this court by giving opportunity to correct themselves. No purpose is going to be served by arresting the petitioners and getting regular bail.

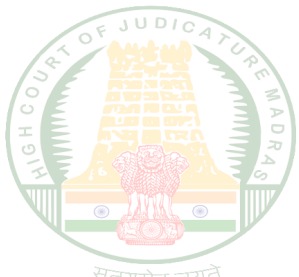


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16. So, these petitions can be disposed of by reproducing the above said observation *"what is important is human values, much above the law, above the politics, above the religion etc. It must be maintained by the people like the petitioners, who belong to political party and that too who are political functionaries. This court is of the hope that they will maintain it at any costs."*

17. So I am of the considered view that with some conditions they can be granted anticipatory bail on condition that they must stay at Salem and report before the Judicial Magistrate No.1, Salem, daily at 10.30 am until further orders. If any violation is noticed in future about their undertaking that is given before this court, then the anticipatory bail that has been granted to them shall stand automatically cancelled and the respondent is at liberty to take appropriate action.

18. Considering the above facts and circumstances of the case, this court is inclined **to grant anticipatory bail** to the petitioners with the conditions. Accordingly, the petitioners are ordered to be released on bail in the



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event of arrest or on their appearance before the learned Judicial Magistrate No.VI, Madurai and on each of them executing 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 Judicial Magistrate concerned and **the petitioners shall stay at Salem and report before the Judicial Magistrate No.1, Salem, daily at 10.30 am until further orders.** The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C scrupulously.

(G I J)
01.09.2022

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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.



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G.ILANGOVAN J

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