

IN THE COURT OF SESSION, ERNAKULAM DIVISION

Present:

Smt.Honey M.Varghese, Sessions Judge

Saturday, 02nd day of July, 2022/11th Ashadha, 1944

CrI. M.C. No.1348 of 2022

(Crime No.663/2022 of Central Police Station, Ernakulam)

Petitioner/Accused:-

Adv.Krishna Raj.R, aged 55 years, S/o.Dr.G.Ramachandraraj, Bharatham,
Pallipparambu Lane, Ponoth Road, Kaloor, Kochi-17.

By Adv.M/s.B.N.Shiv Shanker, Tinu T.Joseph, Archana Haridas

Respondent/Complainant:-

State of Kerala represented by Public Prosecutor, Sessions Court, Ernakulam.

By Public Prosecutor Sri.Manoj G.Krishnan

This petition filed u/s.438 of Cr.P.C., praying this Court to grant anticipatory bail to the petitioner.

This petition coming on for hearing on 29.06.2022 and the court on 02.07.2022, passed the following:-

ORDER

This application is filed u/s 438 of Cr.PC for anticipatory bail.

2. The petitioner herein is the accused in crime no. 663/2022 of Central police station, Ernakulam registered for the offence u/s. 295A IPC.

3. The case of the prosecution in brief is that the petitioner who is a practicing lawyer with a deliberate and malicious intention of outraging the religious feelings of Islam believers posted a facebook post on his account and insulted the religious beliefs of that class and thereby committed the offences alleged against him.

4. The petitioner contended that he is a practicing lawyer at High Court of Kerala with a standing of 33 years. He is dealing with cases relating to Hindu

Temples. He approached the Hon'ble High Court by filing Writ Petition when Guruvayoor Devaswom Board without any authority transferred 5 crore rupees into the Chief Minister's Relief Fund and the Hon'ble High Court ordered the State Government to refund the said amount. The petitioner was about to file a contempt case against the State and present case is registered to terrorize him to drop the said proceedings. The petitioner made the comment as a sarcastic criticism against the State of Kerala on the basis of Intelligence report that terrorists activities in the State of Kerala are increasing. He never intended to outrage any particular religion or religious feelings. It is also alleged that he is holding vakkalath for Smt. Swapna Suresh who had made allegations against several political persons including the present Chief Minister of Kerala. That also prompted the registration of the above crime. He submitted that he is ready to abide by any conditions that may be imposed by this court.

5. The learned Public Prosecutor submitted that the case was registered on the basis of a petition filed by another lawyer. He vehemently objected the petition. According to him, the petitioner is making comments frequently so as to outrage the religious feelings of a particular class of citizens. Moreover, the learned Public Prosecutor submitted that the photo attached along with the post is also outraged the religious feelings. There is deliberate and malicious intention on the part of the petitioner to outrage the religious feelings and prayed to dismiss the petition.

6. Heard both sides and perused the records.

7. The allegation against the petitioner herein is that on 30/05/2022 he posted a statement on facebook with a deliberate and malicious intention to outrage the religious feelings of believers of Islam. He also attached a photograph with the post wherein a person appears to be in the attire of muslim sat on the driver seat of KSRTC bus. On seeing this post one of the public approached the police stating that religious feelings of Islam believers are infringed and thereby the case was registered.

8. The essence of the offence under section 295A IPC is that insult to religion or to outrage the religious feelings must be the sole or primary or atleast deliberate and conscious intention. In order to bring the case within the section it is not so much the matter of discourse as the manner of it. The words used should be such as bound to be recorded by any reasonable man are grossly offensive and provocative and deliberately and maliciously intended to outrage the religious feelings of any class of citizens of India. I have gone through the facebook post. Prima-facie it appears as a sarcastic criticism against the Government of Kerala. The learned Public Prosecutor submitted that some of the terms in the post are connected with Islam religion and also humiliating them. It intends that they are behind the recruitment of terrorists.

9. Here the highlight of the post is that the State Government arranged a special service in connection with the Anniversary of the Government. This section does not disclose any act of insult or attempt to insult the religion or the religious

beliefs of a class of citizens who are not perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. As I mentioned, prima facie the post appears to be a sarcastic criticism against the Government of Kerala. So at this stage this court is not suppose to anaylse the statement explicitly. Moreover, the petitioner is a practicing lawyer. The learned Public Prosecutor brought my attention to several other comments made by the petitioner allegedly outraging the religious feelings of a class of people. It is to be noted that no case is registered against him so far. Considering the nature of allegations custodial interrogation of the petitioner is not necessary. At the very same time taking into account the nature of previous statements allegedly made by the petitioner he should be restrained by making such statement by imposing stringent conditions. For the reasons mentioned above this application is allowed on conditions.

In the result, this application is allowed on the following conditions.

1. The petitioner shall be released on bail in the event of his arrest in connection with the above crime on executing a bond for Rs. 50,000/- with two solvent sureties for the like sum each to the satisfaction of the Arresting Officer/Investigating Officer as the case may be.
2. The petitioner shall appear before the investigating officer for the purpose of interrogation as and when required by him, till the final report is filed.
3. The petitioner shall not intimidate or influence the the witnesses or

interfere with the investigation.

4. The petitioner shall not involve in the commission of any other offences.
5. The petitioner shall co-operate with the investigation.
6. The petitioner shall not make any comments or publish any comments or posts of a nature outraging the religious feelings of any class of citizens of India in any media including social media.

Dictated to the confidential Asst. transcribed and typed by her, corrected and pronounced by me in open court on this the 02nd day of July, 2022.

Sd/-

Honey M.Varghese
Sessions Judge

sk/
comp. By:

Crl. M.C. No.1348 of 2022
Order dated – 02..07..2022