

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CrI.OP(MD)No.5108 of 2024

Haj Mohamed

: Petitioner

Vs.

State Rep. by
The Inspector of Police,
CCD III Police Station,
Tenkasi District.
Cr.No.29 / 2023

: Respondent

PRAYER: Petition filed under Section 439 Cr.P.C seeking bail in connection with the case in Crime No.29 of 2023 on the file of the respondent police.

For Petitioner : Mr.G.Karuppasamy Pandiyan

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

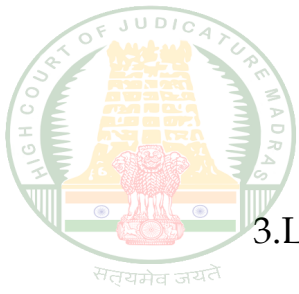


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ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.02.2024 in connection with the case in Crime No.29 of 2023 on the file of the respondent Police, has filed this application seeking bail. The said criminal case was registered as against this petitioner for the offence u/s. 354 IPC, Sections 66, 66C, 67 of IT Act @ 354 C, 294(b), 509 IPC, Sections 66C, 67, 66D, 67A of IT Act & Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

2.The prosecution case is that the petitioner had sent obscene and vulgar messages to the defacto complainant's brother through Facebook. On seeing the foul messages, the defacto complainant's brother blocked the ID. Even then, the petitioner continued to send such messages through another Facebook ID. The petitioner has also created fake Instagram ID, morphed the images of the wife of the defacto complainant's brother and uploaded the same in the fake Instagram ID.



3.Learned Counsel for the petitioner submitted that there was a dispute between the petitioner and the defacto complainant's brother and on that motive, this case has been foisted. He further submitted that since it is an offence against a woman, the FIR has not been uploaded and as such, he is not in a position to access the FIR and attack the same on other grounds.

4.He further submitted that all the offences, for which the FIR is registered, are bailable in nature, however, the petitioner is in prison for the past two months. He has advised his client / the petitioner not to indulge in such offence and the petitioner has also filed an affidavit that he will not indulge in any offence of this nature in future. Therefore, the learned Counsel prayed for grant of bail.

5.Learned Additional Public Prosecutor produced the copy of the FIR, the alteration report and the materials, which the investigation agency has collected during the course of their investigation. He submitted that the petitioner has morphed the picture of a woman, uploaded the same in the



social media and communicated it to the woman's husband. Apart from that, the petitioner has projected the woman's photo as a call girl, in the social media, with a name-tag as Item Girl 19. This offence cannot be termed as an offence against a woman alone, inasmuch as it impacts the society as well. Therefore, he raised serious objections for the grant of bail.

6.This Court considered the rival submissions made on either side and perused the materials placed on record.

7.The case was initially registered for the offence u/s.354 IPC, Sections 66, 66C, 67 of IT Act. Later, an alteration report was filed and the offences were altered to Sections 354C, 294(b), 509 IPC, Sections 66C, 67, 66D, 67A of IT Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

8.The allegation levelled against the petitioner is serious in nature. Morphing a woman's picture and uploading it in the social media. Not only it will damage the woman's morality and her family, but it will also disturb



and may deviate the others, particularly the younger generation, who are using the social media.

9.Though the offences for which the FIR was registered are bailable in nature, the offence u/s.67A of the IT Act is an exception. For a first time offender under this Section, the conviction with imprisonment may extend upto five years. As per Section 77B of the IT Act, the offences with three years imprisonment alone are bailable.

10.Since the FIR was registered for the offence u/s.67A of the IT Act also, which is an offence punishable with imprisonment of three years and above, coupled with the gravity / impact which the crime would have on the society as a whole, this Court is not inclined to grant bail to this petitioner.

Accordingly, this criminal original petition stands dismissed.

Internet : Yes
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12.04.2024



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CrI.OP(MD)No.5108 of 2024

B.PUGALENDHI, J.

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To

1.The Inspector of Police,
CCD III Police Station,
Tenkasi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.OP(MD)No.5108 of 2024

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