

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2020

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.7273 of 2020

Ahamath Ikbal,
S/o Mohammed Ibrahim
42, Moore Street, 4th Floor
Chennai-1

...Petitioner

Vs

State rep. by:
Inspector of Police,
Kitchipalayam Police Station,
Salem City.
(Crime No. 229/2020)

....Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner / accused on bail pending investigation in Crime No.229/2020 on the file of the respondent police.

For Petitioner : Mr. A.R.L.Sundaresan
Senior Counsel
for Mr.R.Rajan

For Respondent : Mr.A.Natarajan
State Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.04.2020 for the offence punishable under Sections 13 and 14 of Foreigners Act and Sections 269, 270 & 278 of IPC and Section 3 of Epidemic Diseases Act, Sec 58 (4) Tamil Nadu Public Health Act and Sec.51 (b) of National

Disaster Management Act, in Crime No.229 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.04.2020, the Village Administrative Officer of Salem Town lodged complaint alleging that the accused 1 to 11 belonged to Indonesia and they have come to India on tourist Visa on 29-01-2020. They have stayed at Salem Rahamat Nagar Masjid from 13-03-2020 to 18-03-2020 and stayed in Masjid in Kitchipalayam Police station limit from 19-03-2020 to 22-03-2020 for propagating Islamic Religion. They are affected by Covid-19 and they have also spread the virus to the residents in the nearby locality. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that as far as the petitioner is concerned, he is arrayed as A12 and the allegation against him is that he also was along with A1 to A11 in the Masjid during Propaganda of Islamic Religion. The petitioner was also affected by Corona Virus and he was treated in Mohan Kumaramangal General Hospital, Salem from 22-03-2020. On the complaint lodged by the Village Administrative Officer, the petitioner was remanded to judicial custody on 15-04-2020. Therefore no offence is made out as against the petitioner as alleged by the prosecution. Further he submits that the petitioner is in judicial custody for the past 21 days and hence, he seeks bail for the petitioner.

4. Per contra, the learned Public Prosecutor (State) would submit that the petitioner along with A1 to A11 stayed at Salem Rahamat Nagar Masjid and Masjid in Kitchipalayam Police station limit for propagating Islamic Religion in the public. They already knew about the Covid-19 virus which spread all over the world. Even then, they stayed and were propagating the religious in public and as such they spread the Covid-19 in all over the City of Salem. Hence, he vehemently opposed for grant of bail to the petitioner.

5. The petitioner is arrayed as 12th accused, admittedly, A1 to A11 have come from Indonesia and their Indian Citizens of India on tourist visa on 29.01.2020. Thereafter, they came to Salem and stayed in Rahamat Nagar Masjid along with the petitioner for propagating their religion to the Islamic people. Admittedly, the petitioner was also affected by Covid-19 and thereafter, he was treated by the Mohan Kumaramangal General Hospital, Salem. Now, he is fully recovered and remanded to judicial custody in pursuant to the complaint lodged by the Village Administrative Officer. As far as the petitioner is concerned, the offence under Sections 13 and 14 of Foreigners Act, has not been attracted and also insofar as the other offences are concerned as against the petitioner.

6. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner is in

judicial custody from 15.04.2020, this Court is inclined to grant interim bail to the petitioner, for a period of eight weeks, subject to the following conditions:

[a] the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison;

[b] the petitioner shall not leave the Chennai city, until further orders;

[c] the petitioner shall surrender his passport, if any, to the Superintendent of the concerned prison, before release.

[d] the petitioner shall inform about his residence in Chennai to the Commissioner, Corporation of Chennai and he shall be putting quarantine in the given residential address by the petitioner.

[e] the petitioner shall not indulging any preaching activities.

6. Post the matter after eight weeks.

06.05.2020

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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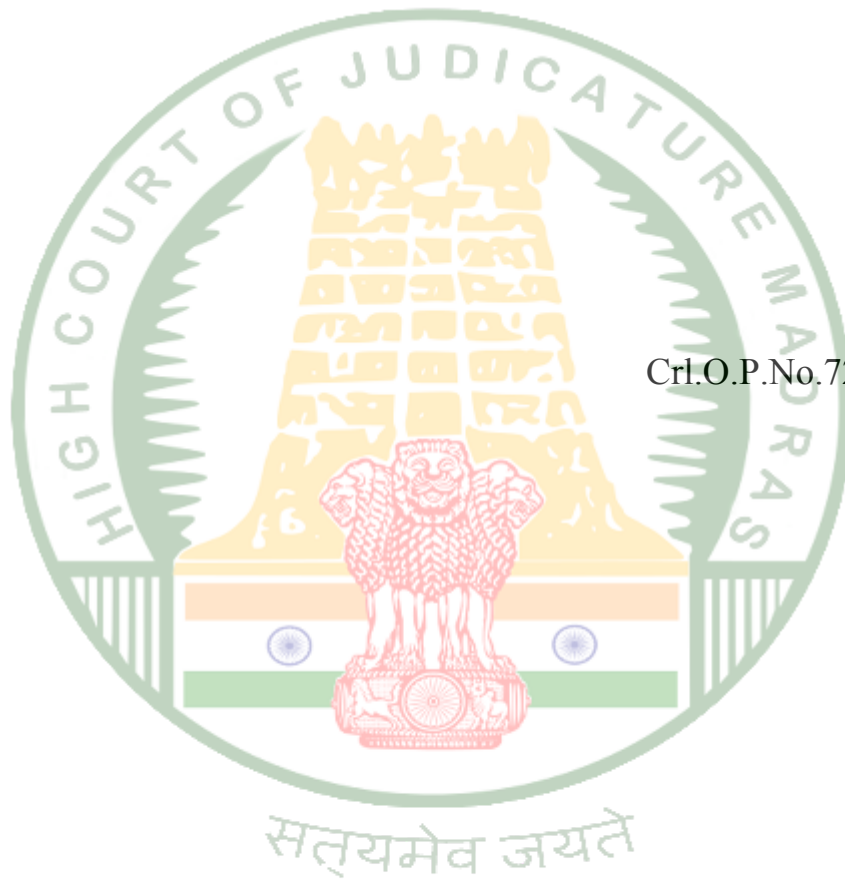
1. The Learned Judicial Magistrate No.2,
Salem.
2. The Inspector of Police,
Kitchipalayam Police Station,
Salem City.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison, Puzhal.



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G.K.ILANTHIRAIYAN, J.

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