

B/A. Bai, / Dismissed

CR 830/10
IN THE COURT OF THE DISTRICT AND SESSIONS JUDGE

ORDER SHEET

Sr. D'R-S, Advocate
for. Peter.

RAMANAGARA

Between :

Crl. Misc. 175/2010

Sri. Nithyananda Swami @ Thiru Rajasekaran

(By Advocate Sri. H.S.CHANDRAMOULI)
And

State by Bidadi Police,

Represented by Public Prosecutor,
Ramanagara District, Ramanagara

... Petitioner

... Respondent

24/03/2010

Petition is filed on 24/3/2010 U/sec. 438 Cr.P.C praying for an order of anticipatory bail to the petitioner in the event of his arrest in Crime No. 141/2010 of Bidadi P.S., for the offence punishable U/sec. 295 (A), 376, 377, 420, 506 (1) and 120 (B) IPC, pending on the file of CJM, Ramanagara.

Vakalath for the petitioner is filed and list with 3 documents are filed.

The papers are scrutinised and found to be correct, may be registered.

SHR

gul/B1/10

edt
C.A.O
24/3

D. J.
Sessions Judge

Make over this Crl. Misc. case to
Ramanagara, for disposal according to law.

D.J. court,

Session Judge

Anand & Iyer,
Quillers 31/3
N

24/3

ON MM 175/10

21/4/10

Petition by Mr. S. Chandru made before court.

ASPR by SP

For orders

CD's recd

RW

PP

21/4

Separate order, signed and pronounced in

Petitions under sec. 438 Cr.P.C in Crime
No.141/2010 and 142/2010 are dismissed.

Ramaguru
Sessions Judge: Ramanagara. 21/4

TRUE COPY

Ramaguru
Examiner

- | | |
|----------------------------------|-----------|
| 1. Copy applied on | 28/4/10 |
| 2. Copying charges called for on | |
| 3. Copying charges protected on | |
| 4. Applicant told to appear on | |
| 5. Applicant appeared on | |
| 6. Copy ready on | |
| 7. Copy delivered on | |
| 8. Copier by | XEROX |
| 9. Claimed by | <i>\$</i> |

BEFORE THE COURT OF DISTRICT AND SESSIONS JUDGE AT
RAMANAGARA

Dated this the 21st day of April 2010

Present :Sri. C.G.Hungund, B.Sc. L.L.B,
District and Sessions Judge, Ramanagara

CRL. MISC. PETITION NO: 175 & 176/2010

Petitioner: Nithyananda Swami,
Formerly known as Thiru Rajashekaran,
S/o late Arunachalam, Aged about 33 years,
At: Nithyananda Dhyanapeetam,
Nithyanandapur, Bidadi,
Ramanagara District.

(Represented by Sri. Chandramouli, Advocate)

-Vs-

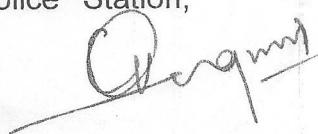
Respondent: State by Bidadi Police Station.

(Represented by Public Prosecutor, Ramanagara)

---000---

ORDER UNDER SEC. 438 Cr.P.C

Above petitions are filed under Sec. 438 Cr.P.C. praying conditional order of anticipatory bail to petitioner in Crime No.141/10 for offences punishable under sec. 295(A), 376, 377, 420, 506 (1) and 120(B) on transferred FIR in Crime No.112/10 registered by Central Crime Branch, Chennai on a complaint from Nithyadharmanand @ Lenin S/o L.Karuppannan, native of Vepampooori village, Attur, Salem District, Tamilnadu and Crime No.142/10 registered on transferred FIR in CCB Crime No. 16/10 registered by IOS Park Police Station,



Coimbatore on a complaint from Sri Viswanath, Journalist cum Media Reporter, R/o Coimbatore.

2. Precise contents of FIR and Complaint from Journalist cum Media reporters registered in Crime No.142/10 are:

That petitioner established Ashram and Centers all over India and across the Globe including the one at Bidadi of Ramanagara District to spread the mission of peace, love and harmony by importing spiritual knowledge and meditation; during 2004 complainant Nithyadharmananda @ Lenin became of devotee of petitioner lived in Ashram at Bidadi selling books, CDs, cassettes etc. instructed by petitioner, in the course of time petitioner became very trusted follower of petitioner, more than 250 members both male and female lived in Ashram to look after the activities, after long association complainant realized that petitioner posed, prevented and made his devotees and followers to believe that he is genuine Sanyasi, true messenger of god, in fact petitioner sexually exploited some devotees staying in Ashram, used some of his devotees to satisfy sexual need under the guise of explaining the stage of "Mukthi", he also had woman sexual relationship with one male devotee, complainant was constrained to videograph amorous/sexual activities/ relationship of petitioner by fixing a camera with the help of one of the personal secretaries of the petitioner to expose the activities of petitioner in the Ashram to innocent devotees,

followers and public at large, on coming to know the same petitioner and his ardent followers threatened to endanger the life of complainant if did not return videograph consisting of amorous activities of petitioner, innocent public are cheated and properties of some innocent public are swindled by petitioner and his ardent followers, complainant manage to escape from Ashram to save his life and lodged complaint to CCB, Egmore Chennai Police Station.

3. Contents of FIR and complaint from Journalist cum media reporter registered in Crime No.142/10 are based on media reports of the contents of complaint of Nithyadharmananda @ Lenin and the CD released by him to the press.

4. Brief averments of petition are as under:

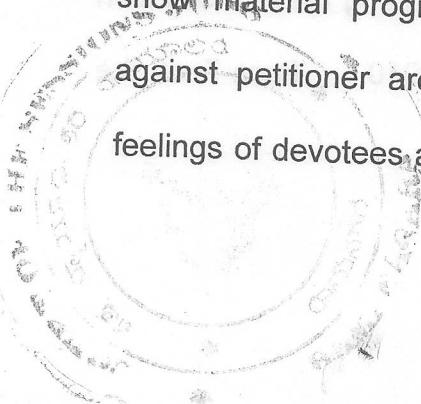
That petitioner is quite innocent of crime registered by respondent police for above stated offences are based on transferred FIR and complaint registered in Crime No. 112/10 registered by Central Crime Branch, Chennai on a complaint from Nithyadharmanand @ Lenin S/o L.Karuppannan, native of Vepampooori village, Attur, Salem District, Tamilnadu and Crime No.142/10 registered on transferred FIR in CCB Crime No. 16/10 registered by IOS Park Police Station, Coimbatore on a complaint from Sri. Viswanath, Journalist cum Media Reporter; that petitioner is worldwide renowned humanitarian and spiritual leader, spreading peace, love and harmony to millions of people across the

world through meditations spiritual teachings and selfless service; that establishment of 1300 Ashrams and spiritual Centers in India and several across the Globe, project the picture of petitioner as genuine spiritual leader accepted by millions of people in the country and across the globe; that petitioner is falsely involved in the top noted crimes at the instance of busy bodies who are jealous of his popularity; that petitioner apprehends involvement of land mafia and unknown hands behind the episode narrated in false complaint of Lenin; that the same is evident from fact that after unfortunate incident of complaint from Lenin, some antisocial elements ransacked Ashram, created nuisance around Ashram and the media glorified, telecasted and published the sequences repeatedly; that period of 7 months taken by Nithyadharmananda @ Lenin to lodge complaint and so called victims viz., Vimalananda, Nithyananda Gopika and actress Ranjitha not coming forwards to give their statements in support of complaint are sufficient to belie commission of crime alleged against petitioner; that image and reputation petitioner is already tarnished to a great extent by press and electronic media and same will be further harmed in the event of arrest by respondent police; that petitioner apprehends detention, humiliation and loss of reputation in the event of arrest because some section of public is pressurizing the police suspecting the bonafides of petitioner; detention of petitioner on arrest is not required for the purpose of investigation; that there is no question of petitioner absconding to avoid

investigation or escape trial because he cannot disown Ashrams established all over India and across the Globe for the mission of peace, love and harmony through spiritual teachings and meditation and that petitioner is ready to abide by all conditions those may be imposed by the court to grant anticipatory bail.

5. Objections of learned P.P. in brief are as under:

That contents of complaint and statements of witnesses are *prima facie* sufficient to reasonably believe illegal activities of petitioner such as sexual exploitation of devotees in Ashram, woman sexual relationship, amorous relationship with actress Ranjitha, swindling the properties of innocent devotees under the guise of teaching techniques of meditation and attaining stage of "Mukthi"; that suspicious death of Candian male due to fall from a building in the Ashrama, suspicious death of youth aged about 18 years only in the Ashrama and two other devotees of Ashrama attempting to commit suicide are the circumstances to probablise illegal activities of petitioner narrated in the complaint from Lenin and Vishwanatha; that due to threat of petitioner and his ardent followers real victims namely Vimalananda, Nithyananda Gopika and actress Ranjitha are unable to reach police to give their statements and for the same reason respondent police are unable to show material progress in the investigation; that offences alleged against petitioner are grave, heinous and sufficient to hurt religious feelings of devotees and public to a great extent; that petitioner and his



ardent followers are likely to interfere with progress of investigation which is at preliminary stage; that eversince FIR registered by Tamilnadu Police in Crime No.112/10 and 16/10, where about of petitioner are not known, petitioner has abandoned Gnana Peeta at Bidadi, he is absconding to defeat investigation and escape trial; that arrest and detention of petitioner is necessary to various cases of cheating innocent public to acquire properties and donations and that petition is liable to be dismissed in the interest of justice.

6. In the light of above contentions and others urged at the time of hearing, point that arises for consideration is;

"Whether it is just and proper to exercise discretion to grant anticipatory bail to petitioner?"

7. The point is answered negatively for the following reasons:

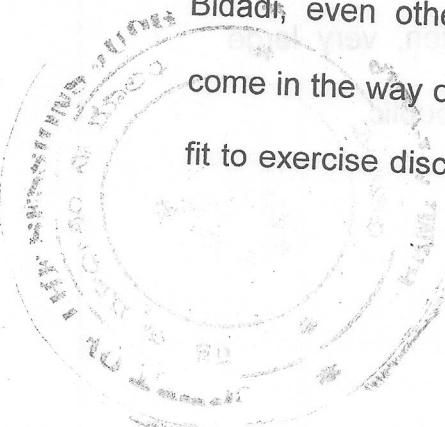
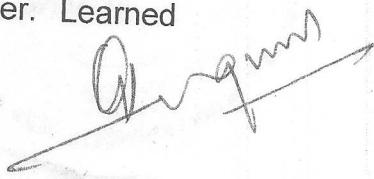
REASONS

8. At the outset learned counsel for petitioner invited attention of the court to the certified copy of proceedings cum order dtd. 25.3.10 in Criminal Petition No.1231/10 before Hon'ble High Court to persuade the court to entertain petitions under sec. 438 Cr.P.C to grant anticipatory bail to petitioner in the top noted crimes. Criminal Petition No.1231/10 before Hon'ble High Court pertains to proceedings under sec. 482 Cr.P.C to quash entire proceedings including the investigation in the top noted Crime No.141 and 142 of 2010. Para-7 of the proceedings cum order reads:

" He further submits that even if investigation in the case is not stayed, atleast a direction may be issued to the police concerned not to arrest the petitioner, pending disposal of the present petition. Since the investigation papers do not disclose recording of statement of any of the witnesses by the Karnataka police as on this date, this apprehension of the petitioner appears to be unfounded. Further, such a direction cannot be issued in exercise of powers under sec. 482 of Cr.P.C. while considering this petition seeking quashing of investigation in the case. If he apprehends that that he may be arrested by the police in this case, the petitioner would be at liberty to approach the proper forum seeking anticipatory bail."

It is evident that petitions under sec. 438 Cr.P.C praying anticipatory bail to petitioner in the top noted crimes should be considered independently and proceedings before Hon'ble High Court under sec. 482 Cr.P.C are no bar to entertain the petitions.

9. Urging the averments of petitions, learned counsel Sri. Chandra Mouli for petitioner submitted that detention of petitioner in J.C on arrest is not required for the purpose of investigation, investigation is in progress, search and seizure is conducted by the I.O in the Ashram at Bidadi, even otherwise conditional order of anticipatory bail will not come in the way of investigation in any manner and the case on hand is fit to exercise discretion to grant anticipatory bail to petitioner. Learned



counsel for petitioner relied on the decisions in:

- 1) Miss Harsh Sawhney Vs. Union Territory (1978) II SCC 365=AIR 1978 SC 1016);
- 2) Naresh Kumar Yadav Vs. Ravindra Kumar (2007 AIR SCW 6617);
- 3) Gurbaksh Sing Vs State of Punjab (AIR 1980 SC-1632).

In Sl.No.1 decision Apex Court is pleased to hold:

"Two grounds have been mentioned on behalf of the State, namely the appellant's presence is necessary for making a search and recovery of certain documents. We do not think that the appellant has to be taken into custody for making a search of premises in her presence. This can be done without her being taken into custody. The other ground that is put forward is the appellant's presence is required by the police for interrogation in connection with investigation. We make it clear that the appellant shall appear for interrogation by the police whenever reasonably required, subject to her right under Article 20(3) of the Constitution."

Grounds urged by the State in the case before Apex court should be considered in the light of facts of that case. Facts of the case on hand are different. Case on hand pertains to more than thousand Ashrams established by petitioner in different states of the nation, very large number of devotees and the feelings of large of innocent public.

In Sl.No.2 decision Apex Court is pleased to hold:

"The power exercisable under sec. 438 is somewhat extraordinary in character and it is only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty then power is to be exercised under sec. 438. The power being of important nature it is entrusted only to the higher echelons of judicial forums, i.e. the court of Session or the High Court. It is the power exercisable in case of an anticipated accusation of non-bailable offence."

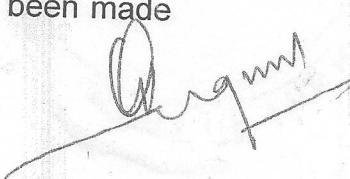
In Gurbaksh Sings's case at Sl.No.3 Apex Court is pleaded to hold:

"The High Court and the Court of Session should be left free to exercise their jurisdiction under Sec.438 by a wise and careful use of their discretion which, by their long training and experience, they are ideally suited to do.

The ends of justice will be better served by trusting these courts to act objectively and in consonance with principles governing the grant of bail which are recognized over the years, than by divesting them of their discretion which the legislature has conferred upon them, by laying down inflexible rules of general application."

In the same decision Apex Court further held:

"If an application for anticipatory bail is made to the High Court or the Court of Session it must apply its own mind to the question and decide whether a case has been made



out for granting such relief."

Decisions relied by the learned counsel for petitioner make it clear that discretion to grant or refuse anticipatory bail should be exercised judiciously on the facts of case under consideration.

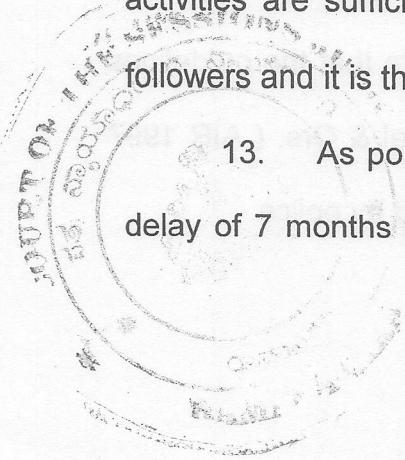
10. Referring to brochure appended to petition, learned counsel for petitioner submitted that more than 1300 Ashrams similar to Gnanapeeta at Bidadi are established by petitioner, they all started by Group of individuals impressed by spiritual idea of blissful foundation mission to spread peace wellness around globe, all donations and properties pertaining to Ashram/ Gnanapeeta are voluntary donations, no assistance or any charity is received from Government or Government owned or Private Institution and there is no Swamiji or his followers teaching to any person to acquire properties are valuables belonging to said person. Learned counsel for petitioner also contended that complaint from Lenin is concocted to denigrate and tarnish the shame of Swamiji through out the country and across the globe, it is likely that victims Vimalananda, Nithyananda Gopika and actress Ranjitha named in complaint are imaginary because they are not traced till today by Chennai Police or Karnataka Police. Episode of actress Ranjitha is a photographic technique glorified by the media, same cannot be taken into consideration in the absence of statement of actress Ranjitha. Viewed from any angle material before court is not sufficient to

reasonably believe commission of crime alleged against petitioner and foregoing facts of the case are sufficient to exercise discretion in favour of petitioner to grant anticipatory bail.

11. Averments of petition reveal that magnetic character of petitioner due to spiritual power of meditation and techniques of spiritual teachings. Same is sufficient to hypnotize and attract larger number of devotees for spiritual learning, meditation and Yoga etc. At the same time, averments of petition that petitioner is victim of popularity, jealousy, land mafia and unknown hands are involved and played its role to aggravate situation etc., are totally inconsistent and contrary to devotion of devotees to petitioner and his spiritual teachings. Land mafia and antisocial elements do not have anything to do with Swamiji who are known to dedicate their selfless service for spiritual teachings and techniques. As such, it is strange and hard to believe involvement of land mafia and unknown hands to tarnish image and reputation of petitioner.

12. In Hindu religion Swamiji is regarded as true messenger of god and power of spiritual teachings. Contents of reveal offending activities of petitioner unknown to Swamiji in Hindu religion. Said activities are sufficient to hurt religious feelings of innocent devotees, followers and it is threat to belief of Hindu religion.

13. As pointed out by learned counsel for petitioner there is a delay of 7 months to lodge complaint after complainant realized about



illegal activities of petitioner. In this regard, contents of complaint are self explanatory. Complainant who was serving as Driver in the Ashram in the beginning, may not be dare enough to reveal offending activities of petitioner to companion devotees as they may not have believed in and thrown him out of Ashram. Even after complaint, police are unable to reach to the victims named in complaint. It is likely that the said victims also have threat of the ardent devotees and followers of petitioner.

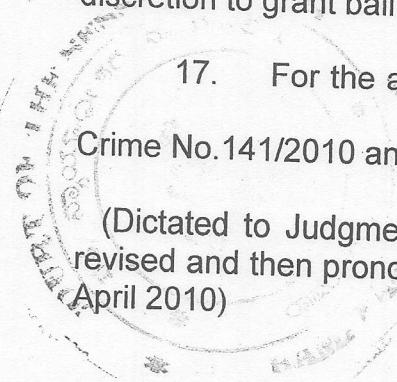
14. No doubt statements of several witnesses conducted in CD submitted for perusal of the court reveal there 100% Trust in the petitioner and his mission. At the same time, statements do not reveal anything about the truth or falsity of amorous relationship of petitioner with actress Ranjitha and other mishaps narrated in the complaint. Statements of witnesses recorded by the I.O, seizure of documents from Ashram at Bidadi reveal need of arrest interrogation of Swamiji to reach to the documents of properties of Ashram and donations of innocent devotees in the country and abroad.

15. In the back drop of status and position of Swamiji in Hindu religion, offence in the complaint are grave. Petitioner has no impediments to surrender to court to void illegal detention and humiliation on arrest by police. It is material to note that the guidelines of Apex court in D.K.Basu Vs. State of West Bengal & Ors. (AIR 1997 SC 630) give complete protection to person arrested by police.

16. Perusal of the case diary reveal that police are unable to progress in material investigation. They are unable to reach victims named in complaint. Investigation has not crossed preliminary stage. At this stage, it is not proper to discuss merits of complaint and investigation having bearing on regular bail application under sec. 439 Cr.P.C. It is also necessary to take judicial notice of the fact that whereabouts of petitioner are not known to the devotees in the Ashram at Bidadi eversince commencement of investigation in the top noted crime. It is also necessary to bear any mind the message conveyed to the feelings of innocent public by exercising or refusing to exercise discretion to grant bail.

17. For the above reasons, petitions under sec. 438 Cr.P.C in Crime No.141/2010 and 142/2010 are dismissed.

(Dictated to Judgment Writer, transcribed and computerized by him, revised and then pronounced by me in the open court on this 21st day of April 2010)


 (C.G.HUNGUND)
 District and Sessions Judge
 Ramanagara

1. Copy applied on 28/4/10
 2. Copying charges called for on
 3. Copying charges protested on
 4. Applicant told to appear on 11/5/10
 5. Applicant appeared on 29/4/10 sub
 6. Copy ready on 28/4/10
 7. Copy delivered on 28/4/10
 8. Copier by 28/4/10 sub
 9. Examined by XEROX

TRUE COPY
 Kvr/
 R. mukhy
 Examiner

..... స్వాతంత్ర్య విధానము, కులార్థ
 ప్రాచీన ప్రజార యాచ
 బద్ధమానమున్న మాచద లో సమయ
 శ్రీకృష్ణ దేవాలింగాల నాయ శ్రీచౌడియార్థ.
 లో సమయ ప్రారంభించి..... 15.....
 శ్రీకృష్ణ దేవాలింగాల
 స్వాయంచిత్తు..... 15.....
 శ్రీ. రిహు పండిత్ చాచి సమయ శ్రీచౌడియార్థ.

26/4/10
 CAO