

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

TUESDAY, THE TWELFTH DAY OF DECEMBER,
TWO THOUSAND AND SEVENTEEN

:PRESENT:

THE HON'BLE DR JUSTICE SHAMEEM AKTHER
CRLP .NO:11804 of 2017

Between:

Emmadi Somanarsaiah, S/o Gopaiah,

..... Petitioner/Accused-4

AND

The State of Telangana rep. by Public Prosecutor,
High Court of Judicature at Hyderabad for the State of Telangana and
the State of Andhra Pradesh

.....Respondent/Complainant

Petition under Section 438 of Cr.P.C, praying that in the circumstances stated in the memo of grounds filed herein, the High Court may be pleased to release the petitioner on bail in the event his arrest in Crime No. 120 of 2017 on the file of Madikonda Police Station, Warangal.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri A Prabhakar Rao, Advocate for the Petitioner, and of the Addl. Public Prosecutor (TG) for Respondent, the Court made the following.

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.4, for grant of anticipatory bail in the event of his arrest in Crime No.120 of 2017 on the file of the Madikonda Police Station, Warangal District, registered for the offences under Sections 420 read with 34 of I.P.C. and Section 7 of the Essential Commodities Act, 1955.

2. Heard the learned counsel for the petitioner/accused No.4, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioner/accused No.4 would submit that the allegation is that the PDS rice was transported by the petitioner/accused No.4 and the other accused. There is no distinction between the PDS rice and the other rice. Even

the punishment for the offence under Section 7 of the Essential Commodities Act, 1955, is confiscation of the seized rice and also the vehicle used for illegal transportation of the rice. It is also alleged that the petitioner/accused No.4 has cooperated with the accused No.1 in diversion of PDS rice to Maharashtra State. There is no specific case with regard to the procurement of PDS rice by the petitioner/accused No.4 or that the petitioner/accused No.4 transported the PDS rice by the lorry bearing registration No.CG 08 Y 3388 and ultimately prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor opposed the grant of anticipatory bail to the petitioner/accused No.4.

5. As pointed out by the learned counsel for the petitioner/accused No.4, there is no distinction between PDS rice and the other rice, which are being sold by the millers as well as through Fair Price Shops. In case of illegal transportation of PDS rice, the maximum punishment for the said diversion is confiscation of seized stock along with the vehicle that is used for illegal transportation of the said PDS rice. The only allegation against the petitioner/accused No.4 is that he has cooperated with accused No.1 in diversion of PDS rice to Maharashtra State. There is no specific mention of the petitioner/accused No.4 procuring the PDS rice or indulging in any malpractices punishable under Section 7 of the Essential Commodities Act, 1955. In view of the facts and circumstances, whether the offence under Section 420 of I.P.C. and Section 7 of the Essential Commodities Act, 1955, is made out or not

would be established only after due trial. Under these circumstances, the petitioner/accused No.4 can be granted bail under Section 438 of Cr.P.C. on some conditions.

6. Accordingly, the petitioner/accused No.4 is directed to surrender before the Station House Officer, Madikonda Police Station, Warangal District, within a period of 15 days from the date of this order. On such surrender, the Station House Officer, Madikonda Police Station, Warangal District, shall release the petitioner/accused No.4 on bail on his executing a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties in a like sum each to his satisfaction. After being released on bail, the petitioner/accused No.4 shall report before the Station House Officer, Madikonda Police Station, Warangal District, on every Sunday between 08:00 AM and 09:00 AM, till filing of the charge-sheet. The petitioner/accused No.4 shall also abide by the conditions stipulated in Section 438 (2) of the Code of Criminal Procedure, 1973, and shall cooperate with the investigation officer in the investigation of the case.

7. The Criminal Petition is, accordingly, allowed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The Principal Sessions Judge, Warangal
2. The III Addl. Judicial First Class Magistrate, at Warangal
3. The Station House Officer, Medikonda Police Station, Warangal District
4. Two CCs to Public Prosecutor (TG), High Court, Hyderabad (OUT)
5. One CC to Sri A Prabhakar Rao, Advocate (OPUC)
6. One spare copy

Skm

HIGH COURT

DR. SA,J

**Drafted by: skm
Drafted on: 13-12-2017**

DATE: 12-12-2017



ORDER

CRL.P. No. 11804 of 2017

DIRECTION