

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11592 OF 2017

ORDER:

This petition is filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioner-A2 for the offences alleged under Sections 379, 420 IPC and 21 (i) (a) of MMDR Amendment Act, 2015.

2. Heard learned counsel for the petitioner-A2, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioner-A2 would submit that silica sand was being transported by lorry bearing No. AP 07 TH 2388 from Nellore to Coimbatore on 16.10.2017 under a valid permit. The petitioner-A2 being the owner of the lorry has not committed any offence. The distance between Nellore and Coimbatore is 765 K.Ms. It is not possible to make number of trips on the same day i.e., on 16.10.2017. The petitioner-A2 is falsely implicated in this case and ultimately, prayed to allow the application.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioner-A2 stating that the petitioner-A2 through his lorry bearing No. AP 07 TH 2388 was making number of trips from Nellore to Chennai with a load of silica sand in violation of the permit conditions and indulged in cheating. There is C.C. footage as well as exit and entry at Swarna Toll Plaza on that day i.e., on 16.10.2017. The lorry bearing No. AP 07 TH 2388 made five trips of silica sand load to Chennai and ultimately, prayed to dismiss the application.

5. The material placed on record before this Court reveals that on 16.10.2017 the lorry bearing No. AP 07 TH 2388 passed from Swarna Toll Plaza for five times. It is also alleged that silica sand was loaded at Nellore and was unloaded near Chennai i.e., within a distance of 100 K.Ms. below. It appears that the petitioner-A2 violated the permit conditions and misused the permission granted to transport silica sand. It cannot be said that the petitioner-A2 is an innocent person and falsely implicated in this case. It also cannot be said that the petitioner-A2 did not indulge in cheating and commission of theft of silica sand. The allegations are grave. The matter requires investigation. The release of the petitioner-A2 would hinder investigation. There is possibility of winning over the witnesses. Therefore, it is not a fit case to grant bail to the petitioner-A2 under Section 438 Cr.P.C.

6. Accordingly, the Criminal Petition is dismissed.

DATED: 08-12-2017
Hsd

DR.SHAMEEM AKTHER, J