

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.07.2019

CORAM :
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17180 of 2019

Govindarajan

.. Petitioner

Vs.

The Inspector of Police,
Uthukottai Police Station,
Tiruvallur District.
(Crime No.203 of 2019)

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the order made in Crl.M.P.No.2886 of 2019 dated 17.06.2019 passed by the Principal District and Sessions Judge, Tiruvallur in so far as imposing the condition of depositing a sum of Rs.40,000/- before District Munsif cum Judicial Magistrate, Uthukottai, Tiruvallur District.

For Petitioner : Mr.A.Nagarathinam

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to set aside the condition imposed by the Court below directing the petitioner to deposit a sum of Rs.40,000/- while granting Anticipatory Bail to the petitioner.

2.The respondent police have registered an F.I.R. in Crime No.203 of 2019 for an offence under Section 379 and 430 of I.P.C. on the ground that they intercepted a lorry on 12.06.2019 at about 6.00 a.m. and found that the lorry has carrying four units of river sand. The petitioner before this Court is the owner of the lorry.

3.The learned counsel for the petitioner submitted that the petitioner is having National Permit for goods carrier and he had purchased Silica Sand on 11.06.2019 at Nellore, Andhra Pradesh. This was transported to one of the factories at Trichy, Tamilnadu. The petitioner relied upon the transit pass and various other documents in order to prima facie establish that the lorry was carrying Silica Sand from Andhra Pradesh to Tamilnadu. The learned counsel for the petitioner also relied upon E-Way Bill dated 11.06.2019 which also clearly mentioned the details of the goods carried in the lorry.

4.The learned counsel for the petitioner by relying upon all these documents submitted that the respondent police has foisted a false case as if the lorry was carrying four units of river sand. In spite of this fact being brought to the notice of the Court below, the Court below while granting Anticipatory Bail had imposed an onerous condition directing the petitioner to deposit a sum of Rs.40,000/-. This condition has now been put to challenge before this Court.

5.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the factual dispute as to whether the lorry was carrying Silica Sand or River sand is something which cannot be gone into at this stage. The learned counsel submitted that the petitioner should be directed to deposit this amount without prejudice to his rights to raise all the contentions during trial.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.There are overwhelming materials to show that the petitioner had actually carried Silica Sand from Nellore, Andhra Pradesh and was taking it to a factory at Trichy. Even the movement register that has been filed before this Court gives the exact details about the movement of the vehicle from Andhra Pradesh upto Tamilnadu and it is almost impossible for the lorry driver to have dis-loaded the entire Silica Sand and loaded the River sand in its place. Admittedly the lorry had not reached its destination and it was intercepted even before that on 12.06.2019 at 6.00 a.m. This vital fact has not been taken into consideration by the Court below while imposing the condition.

8.In view of the above, the condition imposed by the Court below is onerous and is liable to be set aside by this Court. Accordingly, the condition imposed by the Court below directing the petitioner to deposit a sum of Rs.40,000/- is hereby set aside. It is made clear that the other conditions imposed by the Court below shall stand as it is.

9.This Criminal Original Petition is allowed and the petitioner is granted 10 days time from today to surrender before the concerned Court and execute the bond and sureties.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Inspector of Police,
Uthukottai Police Station,
Tiruvallur District.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.A.Nagarathinam, Advocate, S.R.No.55880

CrI.O.P.No.17180 of 2019

VG I(CO)

RRS (08/07/2019)



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