

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.14106 of 2020

Inbaraj

... Petitioner

Vs.

The State Represented by,
The Deputy Superintendent of Police,
CSCID Coimbatore Sub Division,
Camp at CSCID Salem,
Crime No.87/2020. ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.87 of 2020 on the file of the respondent police.

For Petitioner : Mr.P.Kalimuthu

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

O R D E R

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 2 (e), 4 of the Motor Spirit and High Speed Diesel (Regulation of Supply Distribution and Prevention of Malpractices) order, 2005 r/w Sec.7(1)(a)(ii) of Essential Commodities Act, 1955 and Sec.285 of IPC in Crime No.87 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that on 25.08.2020, while the respondent police conducted their usual rounds, they found that the petitioner has illegally transferred 6150 liters of Bio-Diesel from one lorry to another lorry by using Electric Fuel Pump. Hence the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and a false case has been foisted against him. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor submitted that the petitioner along with other accused were illegally transferred 6150 liters of Bio-Diesel from one lorry to another lorry by using Electric Fuel Pump. He further submitted that the petitioner is the owner of the lorry. He further submitted that there are no previous cases pending as against the petitioner and also submitted that A1 and A2 have already been arrested and thereafter released on bail by the learned Judicial Magistrate No.2, Salem. However, he opposed for grant of anticipatory bail to the petitioner.

5. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai, SB.A/c. No.11721000000070, IFSC Code No.IOBA0001172,"** without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposit the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions :

[a] The petitioner is directed to pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) either through RTGS/NEFT or in cash in favour of the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai, SB.A/c. No.11721000000070, IFSC Code No.IOBA0001172,"** within fifteen (15) days from the date of receipt of a copy of this order and on such deposit and production of proof and also on condition to execute his own bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for a like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter on every Monday at 10.30 am until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner is released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
22/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.2,
SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
CSCID, COIMBATORE SUB DIVISION,
CAMP AT CSCID SALEM.

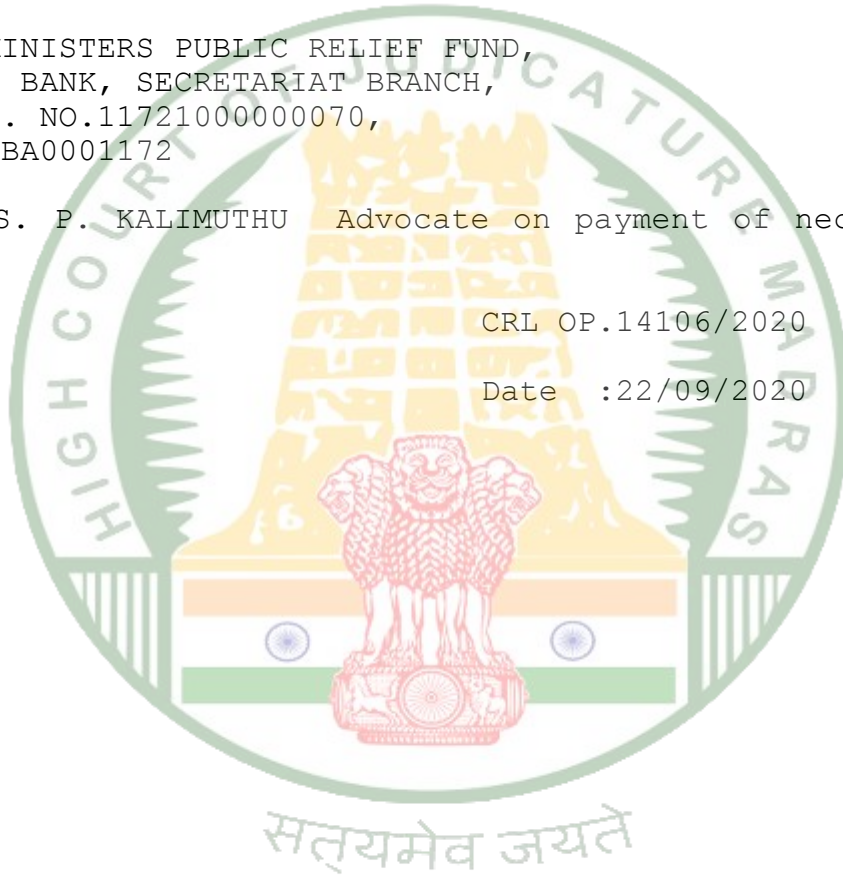
4 THE CHIEF MINISTERS PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK, SECRETARIAT BRANCH,
CHENNAI, SB.A/C. NO.11721000000070,
IFSC CODE NO.IOBA0001172

CC to M/S. P. KALIMUTHU Advocate on payment of necessary
charges

CRL OP.14106/2020

Date :22/09/2020

MK:01/10/2020



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