

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2020

CORAM :

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14198 of 2020

Nethaji @ Rayan Nethaji

... Petitioner

Vs.

The State Represented by,
The Inspector of Police
CSCID Police Station,
Thiruvallur.
(Crime No.34 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.34 of 2020 on the file of respondent police.

For Petitioner : Mr.P.Ganapathy

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 offence punishable under Section 6(4) of Tamil Nadu Scheduled Commodities (RDSCS) order 1982 read with 7 (i), a(ii) of Essential Commodities Act, 1955 in Crime No.34 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the respondent police got information that the accused person had been transporting PDS rice to Andhrapradesh following which, the vehicle was detained and checked and it was containing 1,000 Kgs of PDS rice without proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that the petitioner is prepared to deposit some considerable amount to any charitable organization or association without prejudice to his contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor submitted that the petitioner was illegally transporting 1,000 Kgs of PDS rice, value of Rs.28,100/- without obtaining proper license. He further submitted that there is one previous case pending against the petitioner. Hence he vehemently opposed for grant of anticipatory bail to the petitioner.

5. This Court is of the opinion that the petitioner shall deposit a sum of Rs.28,100/- (Rupees Twenty Eight Thousand and one Hundred only) as non refundable deposit to the **"The Commissioner, Corporation of Chennai, for the purpose of using "Amma Unavagam"** without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits 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 deposit a sum of Rs.28,100/- as non-refundable deposit either through RTGS/NEFT or in cash in favour of the **"The Commissioner, Corporation of Chennai, for the purpose of "Amma Unavagam"** within a period of **fifteen (15) days from the date of receipt of a copy of this order.** Thereafter, the petitioner is directed to be released on bail in the event of his arrest or on his appearance and on production of proof of deposit of the above amount and on further condition that the petitioner shall execute a 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 as and when required for the interrogation.**

[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.

Post the matter for "reporting compliance" on 05.10.2020.

-sd/-
14/09/2020

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.I,
THIRUVALLUR, THIRUVALLUR DISTRICT

2 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CSCID POLICE STATION, THIRUVALLUR .

4 THE COMMISSIONER,
CORPORATION OF CHENNAI [FOR PURPOSE OF AMMA UNAVAGAM]

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

CRL OP.14198/2020

Date :14/09/2020

GKS:23/09/2020