

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 14863 of 2020

Viji @ Vijayakumar

... Petitioner/6th Accused

Vs.

The State represented by,
The Inspector of Police,
C.S.C.I.D. Kancheepuram Unit,
Kancheepuram District.
(Crime No.146/2016)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.146 of 2016, pending investigation on the file of the respondent police.

For Petitioner : Mr.Syed Nizhamuddin Ahmed Hussaini

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

O R D E R

(The case has been heard through video conference)

The petitioner who apprehended arrest at the hands of the respondent police for the offences punishable under Sections 6(4) of INSC [RDCS] order 1982 r/w.7(i)a(ii) of EC Act 1955, in Crime No.146 of 2016, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution is that the petitioner along with other accused was illegally transported 80 bags PDS rice, each bag contains 50 kgs of rice, by using a lorry bearing registration No.TN37 A 2392. 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 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 appearing for the respondent submitted that the petitioner along with other accused was found in illegal possession of four tones of PDS rice and that petitioner is the owner of rice. He further submitted that the petitioner does not have any offence during the year 2016 and that there is no subsequent case also. However, he opposed to grant 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 is directed to donate/pay a sum of Rs.10,000/- (Rupees Ten Thousand only) on favour of the Commissioner, Kancheepuram Municipality, for the usage of Amma Unavagam, without prejudice to his rights and contentions before the trial Court.

6 Merely, because the petitioner has deposited 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 subject to the following conditions.

(a) The petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) either through RTGS/NEFT or in cash in favour of the Commissioner of Corporation, Kancheepuram District, for the usage of Amma Unavagam, within 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 his appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for the 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 organization.

[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 every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m. 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 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.

9 For reporting compliance, post on 14.10.2020.

-sd/-

23/09/2020

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, KANCHEEPURAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
C.S.C.I.D.KANCHEEPURAM UNIT,
KANCHEEPURAM DISTRICT.

4 THE COMMISSIONER,
KANCHEEPURAM MUNICIPALITY

CC to M/S.SYED NIZAMUDDIN AHMED HUSS Advocate on payment of necessary charges

CRL OP.14863/2020

Date :23/09/2020

RVR 09/10/2020