

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2020

CORAM :

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

CRL.O.P.No.16674 of 2020

Mohammed Appas

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Forest Range, Redhills,
(STOR No.3 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in STOR No.3 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.Viswanathan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.08.2020 for the offences punishable under Section 35, 36 of Tamil Nadu Forest Act and Section 9 of TT Rules r/w Section 35B Tamil Nadu Forest Act, in STOR No.3 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 21.08.2020, the petitioner along with other accused was found to be illegally transporting red sanders weighing 1805.150 kgs. worth Rs.9,92,832/- by using Eicher lorry and a two wheeler. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is only the cleaner of the vehicle and the driver of the vehicle was granted bail by this Court vide order dated 16.10.2020 in Crl.O.P.No.15999 of 2020. He would further submit that the contraband was loaded by the owner of the lorry without his knowledge and that the petitioner has been suffering incarceration from 23.08.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner who is the cleaner of the Eicher lorry vehicle along with other accused was found to be illegally transporting red sanders worth Rs.9,92,832/-. He would further submit that the petitioner has no previous case.

5.Taking into consideration of the facts and submissions made by the learned counsels and the fact that the petitioner is only the cleaner of the lorry and there is no previous case pending against him and also considering the period of incarceration suffered by the petitioner from 23.08.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate Court, Ambattur, Chennai and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
28/10/2020

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 COURT,
AMBATTUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CHENNAI CENTRAL JAIL, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
FOREST RANGE, REDHILLS.

+1CC to Mr.A.Viswanathan Advocate on payment of necessary charges SR NO.7090

सत्यमेव जयते

CRL OP.16674/2020

Date :28/10/2020

MK:29/10/2020

WEB COPY