

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.17114 of 2020

Periyasamy

... Petitioner

Vs.

State rep. By
The Inspector of Police,
Civil Supply CID,
Namakkal,
Namakkal District.
(Crime No.61 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of her arrest in Crime No.61 of 2020 on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.M. Mohammed Riaz
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 alleged offences punishable under Sections 6(4) of Tamil Nadu Scheduled Commodities (RDSCS) Order, 1982 r/w. Section 7(1)(a) (ii) of Essential Commodities Act, 1955 in Crime No.61 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found to be illegally transporting 3600 kgs of PDS rice without any valid licence or permit. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has been falsely implicated in this case. However, on instruction, he would further submit that taking into consideration of the Covid pandemic situation, the petitioner without prejudice to her defence, is prepared to make considerable donation to any Charitable Organization

4. The learned Additional Public Prosecutor would submit that the petitioner was in possession of 3600 Kg of PDS rice without any valid licence. He would further submit that the petitioner has one previous case, which is also similar in nature. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. In order to curb the illegal activities, this Court is of the opinion that each of the petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) as non refundable deposit to "The Commissioner of Municipality, Namakkal, for a purpose of "Amma Unavagam" without prejudice to her rights and contentions before the trial Court.

6. Merely, because the petitioner deposits the said amount, it would not amount to admission of her 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.20,000/- (Rupees Twenty Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "The Commissioner of Municipality, Namakkal, for a purpose 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 on his appearance and on production of proof of payment of the above amount the petitioner shall execute a separate 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Judicial Magistrate No.II, Namakkal, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[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 Monday and Friday 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/-
02/11/2020

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.II, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CIVIL SUPPLY CID,
NAMAKKAL, NAMAKKAL DISTRICT.

5 THE COMMISSIONER OF MUNICIPALITY,
NAMAKKAL,
FOR A PURPOSE OF AMMA UNAVAGAM.

+1 CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary charges SR.No.7174

CRL OP.17114/2020

Date :02/11/2020