

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.18076 of 2020

Mubarak Kan

... Petitioner

Vs.

The State rep. By
The Inspector of Police
Krishnagiri Police Station
Krishnagiri
(Crime No.38 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.38 of 2020, on the file of the respondent police.

For Petitioner : Mr.R.Thirumoorthy

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 alleged offences punishable under Section 6(4) of TNSC(RDCS) order 1982 r/w Section 7(1) (a) (ii) of E.C Act 1955, in Crime No.38 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found in possession of 600 Kgs of PDS rice . 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 appearing for the respondent would submit that the petitioner was found in possession of 600 Kgs of PDS rice. He would further submitted that the petitioner is the owner of the rice as well as the vehicle and that there is no previous case against the petitioner. However, he opposed for grant of anticipatory bail to the petitioner.

5. Taking note of the facts and circumstances, this Court is of the opinion that the petitioner shall be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit to The Commissioner, Krishnagiri Municipality (for the purpose of 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. Considering 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.5,000/- as non-refundable deposit either through RTGS/NEFT or in cash in favour of The Commissioner, Krishnagiri Municipality (for the purpose of Amma Unavagam) within fifteen (15) days from the date on which the order copy is made ready. 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 before the Judicial Magistrate-I, Krishnagiri, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (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 an 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., 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.

-sd/-
18/11/2020

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.I, KRISHNAGIRI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KRISHNAGIRI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE COMMISSIONER,
KRISHNAGIRI MUNICIPALITY
[FOR THE PURPOSE OF AMMA UNAVAGAM]

+1 CC to M/S.R.THIRUMOORTHY Advocate on payment of necessary charges SR.No.7636

CRL OP.18076/2020

Date :18/11/2020