

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.11.2020

CORAM :

THE HON'BLE Mr.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18397 of 2020

Kaja @ Kajmohaideen Mohammed Hussian

... Petitioner

Vs.

The State rep by its

The Inspector of Police

CSCID, Coimbatore Police Station,
Coimbatore.

Cr.No.132 of 2020

U/s. 6(4) of TNSC (RDCS) order-1982

R/w.S.7(1) a (ii) of E.C. Act 1955

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail, pending investigation in Crime No.132 of 2020, on the file of the respondent police.

For Petitioner : Mr.R.Rajarajan

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 08.10.2020 for the offences punishable under **Section 6 (4) of TNSC (RDCS) order 1982 read with 7(1) (a) (ii) of E.C. Act of 1955**, in Crime No.132 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused were found illegally transporting 1100 kgs. of PDS Rice, in 22 bags, each containing 50 kg. PDS Rice, without any valid permission. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. However, on instructions, he would further submit that without prejudice to his defence, the

petitioner is prepared to make considerable donation to any Charitable Organization or Association and that the petitioner has been suffering incarceration from 08.10.2020. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor would submit that the petitioner was found transporting 100 kgs. of PDS Rice illegally by using two wheeler and later, based on his confession 1000 kgs. of PDS Rice, worth Rs.8,215/- was seized from his house. He would further submit that the petitioner has got one previous case of similar nature to his credit in Crime No.149 of 2019. Hence, he vehemently opposed for the grant of 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 donation to any charitable organization or association, this Court is of the opinion that the petitioner shall be directed to **donate 5 bags of Ponni Rice, each containing 50 kgs. to the Director, Don Bosco Anbu Illam, 38, G.M. Nagar, Ukkadam, Coimbatore-1, Mobile Nos.8675854412 / 9597884374 (South Indian Bank Ltd., B.B. Street, A/c.No.0440053000001575, IFSC.SIBL0000440).** On such donation and production of proof, he shall be released on bail on further condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a likesum to the satisfaction of the the **learned Judicial Magistrate-IV, Coimbatore,** and on further conditions that;

(a) the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter as and when required.

(b) Merely, because the petitioner makes such donation, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

(c) 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;

(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/-

23/11/2020

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-IV, COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CSCID, COIMBATORE POLICE STATION, COIMBATORE

6 THE DIRECTOR, DON BOSCO ANBU ILLAM,
38, G.M. NAGAR, UKKADAM, COIMBATORE-1,
MOBILE NOS.8675854412/9597884374 (SOUTH INDIAN BANK LTD.,
B.B. STREET, A/C.NO.0440053000001575)

+1 CC to M/S.R.RAJARAJAN Advocate on payment of necessary charges SR.NO.7758

CRL OP.18397/2020

Date :23/11/2020

GKS:27/11/2020