

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18608 of 2020

Elumalai

... Petitioner

Vs.

State Represented by
The Inspector of Police,
CSCID, Thiruvannamalai,
Crime No.123 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.123 of 2020, on the file of the respondent police.

For Petitioner : Mr.M.Krishnamoorthy

For Respondent : Mr.C.Raghavan
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 26.10.2020 for the offences punishable under Sections 6(4)TNSC(RDCS) Order 1982 7(1)(a)(ii) of EC Act, in Crime No.123 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that on 24.10.2020, on the secrete information, he along with his officials had gone to the petitioner's rice mill and on search, the petitioner was found in illegal possession of 443 bags of 50 kg rice, 196 bags of 25 kg Kurunai mixed rice, 372 bags of 50 kg PDS rice and 33 bags of wheat from his mill and lorry. 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 Covid pandemic situation the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association. He would submit that the petitioner was arrested on 26.10.2020 and he is suffering incarceration for more than a month. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was found in illegal transportation of 24 tonnes of PDS rice, 27 tonnes of PDS Kurunai mixed rice, 9.3 tonnes of polished PDS rice and 1500 kgs of wheat, by

using two lorries. Hence, he opposed to grant 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 directs the petitioner to make payment/donation for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each to the following Trust as non-refundable deposit through the demand draft or RTGS:-

- Missionaries of Charity (Mentally Retarded Children), Nirmala Shisu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai-600 013, South Indian Bank Limited, George Town Branch, A/c.No.0042053000009382, IFSC Code No.SIBL00000042.
- Satkaarya Trust, No.10/46, Periyar Street, Thenpalani Nagar, Kolathur, Chennai-600 099, ICICI Bank, Kilpauk Branch, A/c.No.027801002323, IFSC Code No.ICIC0000278.
- Seva Chakkara Samajam, 89/41, Sami Pillai Street, Choolai, Chennai - 112, Canara Bank, Vepery Branch, A/C.No.0943101024681, IFSC Code No.CNRB00000943.
- Claretian Life Animation Project Trust, Karur Vysya Bank Limited, Tambaram Branch, Chennai, A/c.No.1190155000096499, IFSC-KVBL0001190.
- Little Drops, Oriental Bank of Commerce Branch, Moulivakkam Chennai, A/c.No.05811010002400, IFSC Code No.ORBC0100581.

6. On such above payments and production of proof, 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 learned Judicial Magistrate No.I, Thiruvannamalai and on further conditions that:

(a) the petitioner shall report before the respondent police every day at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 a.m. until further orders.

(b) 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.

(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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

27/11/2020

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, THIRUVANNAMALAI

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CSCID, TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.

5 MISSIONARIES OF CHARITY (MENTALLY RETARDED CHILDREN),
NIRMALA SHISU BHAVAN, NO.26/79, WEST MADHA CHURCH ROAD,
ROYAPURAM, CHENNAI-600 013, SOUTH INDIAN BANK LIMITED,
GEORGE TOWN BRANCH, A/C.NO.0042053000009382,
IFSC CODE NO.SIBL00000042.

6 SATKAARYA TRUST, NO.10/46, PERIYAR STREET,
THENPALANI NAGAR, KOLATHUR, CHENNAI-600 099,
ICICI BANK, KILPAUK BRANCH, A/C.NO.027801002323,
IFSC CODE NO.ICIC0000278.

7 SEVA CHAKKARA SAMAJAM, 89/41, SAMI PILLAI STREET,
CHOO LAI, CHENNAI - 112, CANARA BANK,
VEPERY BRANCH, A/C.NO.0943101024681,
IFSC CODE NO.CNRE00000943.

8 CLARETIAN LIFE ANIMATION PROJECT TRUST,
KARUR VYSYA BANK LIMITED,
TAMBARAM BRANCH, CHENNAI, A/C.NO.1190155000096499,
IFSC-KVBL0001190.

9 LITTLE DROPS, ORIENTAL BANK OF COMMERCE BRANCH,
MOULIVAKKAM CHENNAI, A/C.NO.05811010002400,
IFSC CODE NO.ORBC0100581.

10 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

CC to M/S.M.KRISHNAMOOTRHY Advocate on payment of necessary
charges Sr.7807

CRL OP.18608/2020

Date :27/11/2020

RVR 30/11/2020



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