

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18734 of 2020

Apsal Basha

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
C.S.C.I.D Police Station,
Krishnagiri District.

(Crime No. 87 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 87 of 2020, on the file of the respondent police.

For Petitioner : Mr.M.Jayachandran

For Respondent : Mr.T.Shunmugarajeswaran

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 01.11.2020 for the offences punishable under Sections 6(4) of TNSC (RDCS) Order 1982 r/w 7(i) a (ii) of E.C. Act 1955, in Crime No. 87 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 01.11.2020, when the respondent police was on his regular vehicle checkup, he has intercepted the TATA ACE Vehicle, bearing registration No.KA554190 and on search, he found that the petitioner was illegally transporting 700 kgs of PDS rice (50kgs x 14 Bags), which is worth about Rs.3955/-, without any valid license from the Government Authority. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and that he has been falsely implicated in this case. On instructions, he would further submit that taking into consideration of the Covid pandemic situation, the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 01.11.2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was illegally transporting 700 kgs of PDS rice (50kgs x 14 Bags), which is worth about Rs.3955/-, by using TATA ACE Vehicle, bearing registration No.KA554190, without any valid license. He would further submit that the petitioner is the driver cum owner of the lorry.

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 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 through RTGS/NEFT in favour of the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, on such payment and production of proof, he shall be released on bail on further condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.I, Krishnagiri, and on further conditions that;

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

(d) 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;

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

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

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

(h) 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];

(i) 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/-

30/11/2020

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 JAILER,
SUB JAIL, KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
C.S.C.I.D POLICE STATION,
KRISHNAGIRI DISTRICT.

6 THE CANCER INSTITUTE (WIA) (REGIONAL CANCER CENTRE),
ADYAR, CHENNAI - 600020,
BEARING A/C.NO.149710011005477,
ANDHRABANK, MADHYA KAILASH BRANCH

CC to M/S.M.JAYACHANDRAN Advocate on payment of necessary
charges

CRL OP.18734/2020

Date :30/11/2020

MK:02/12/2020



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