IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18889 of 2020

Raja ... Petitioner/3rd Accused

Vs.

The State represented by, ... Respondent/Complainant
The Inspector of Police,
CSCID Police Station,
Vellore District.
[Crime No. 165 of 2020]

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No. 165 of 2020, on the file of the respondent police.

For Petitioner : Mr.M.Sathish Kumar
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 6(4) of TNSC(RDCS) ORDER 1982, 7(1)(a)(ii) Essential Commodities Act, 1955, in Crime No. 165 of 2020, on the file of the respondent, seeks anticipatory bail.

2.The case of the prosecution is that while the defacto complainant was on his patrol duty, the petitioner was found in illegal transportation of 184 bags of PDS rice, each bag contains 50 kgs of PDS rice by using Lorry bearing registration No. TN 10 BH 8611 TATA Benze and also found in illegal transportation of 50 bags of PDS rice, each bag contains 100 kgs of PDS rice by using Eicher Lorry bearing registration No.TN 33 L 9257. 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 on the confession given by the co-accused. 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. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that there are totally three accused in this case and the petitioner is arrayed as third accused. He would submit that the petitioner along with other accused was found in illegal transportation of 14,200 kgs of PDS rice by using two lorries and that the petitioner is the owner of the rice and the co-accused in this case are still in custody. He would further submit that there is one previous case of similar nature pending against the petitioner and in that case he was found in illegal possession of 27,550 kgs of PDS rice. Hence, he opposed to grant anticipatory 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 is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.40,000/- (Rupees Forty Thousand only) either through RTGS/NEFT or in cash to the credit of the **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,** a sum of Rs.40,000/- (Rupees Forty Thousand only) either through RTGS/NEFT or in cash to the credit of the **Satkaarya Trust, No.10/46, Periyar Street, Thenpalani Nagar, Kolathur, Chennai - 600 099, ICICI Bank, Kalipauk Branch, A/c.No.027801002323, IFSC Code No.ICIC0000278,** a sum of Rs.40,000/- (Rupees Forty Thousand only) either through RTGS/NEFT or in cash to the credit of the **Seva Chakkara Samajam, 89/41, Sami Pillai Street, Choolai, Chennai - 112, Canara Bank, Vepery Branch, A/C.No. 0943101024681, IFSC Code No.CNRB00000943,** a sum of Rs.40,000/- (Rupees Forty Thousand only) either through RTGS/NEFT or in cash to the credit of the **Claretian Life Animation Project Trust, the Karur Vysya Bank Limited, Tambaram Branch, Chennai, A/c.No.1190155000096499, IFSC - KVBL0001190,** and a sum of Rs.40,000/- (Rupees Forty Thousand only)either through RTGS/NEFT or in cash to the credit of the **Little Drops, Oriental Bank of Commerce Branch, Moulivakkam Chennai, A/c.NO. 05811010002400, IFSC.Code: ORBC0100581,** without prejudice to his rights and contentions before the trial Court, 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 his appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees 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 a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization and on further conditions that:

[a]Merely, because the petitioner has deposited 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.

[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 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.

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

7.For reporting compliance, post the matter on **16.12.2020.**

-sd/-
02/12/2020

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.IV,
VELLORE, VELLORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CSCID POLICE STATION,
VELLORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

7 THE SEVA CHAKKARA SAMAJAM, 89/41, SAMI
PILLAI STREET, CHOOLAI, CHENNAI - 112,
CANARA BANK, VEPERY BRANCH,
A/C.NO. 0943101024681, IFSC CODE NO.CNRB00000943,

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

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

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

CRL OP.18889/2020

Date :02/12/2020

TA-08/12/2020