

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.1765 of 2021

Varatharaj

... Petitioner/Accused-5

Vs.

The State Rep. by
The Inspector of Police,
Gomangalam Police Station
Gomangalam.
(Crime No.21 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No. 21 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.M.Mohammed Hasain

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are five accused and the petitioner is arrayed as A5. He apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 7(1)(a)(ii) of the Essential Commodities Act, 1955, in Crime No. 21 of 2021, on the file of the respondent police, and now, he has filed this petition seeking to grant anticipatory bail. सत्यमेव जयते

2. The case of the prosecution is that the petitioner is a owner of the lorry and he is said to have transported 595 kgs. of urea belongs to A1 without any valid permission. Hence, the lorry was seized and he was implicated as accused. Hence, the criminal case has been registered against the petitioner and now apprehending arrest, he has filed this petition seeking for anticipatory bail.

3. The learned counsel appearing for the petitioner submitted that the petitioner is owner of the lorry. He would submit that he has not transported the urea, and he is not aware that the urea has been transported in the lorry without any permit. That apart, the lorry was seized and at the time of occurrence, no urea was seized. He would submit that he is an innocent person and he is no way connected with the offence. He would submit that he has been falsely implicated as accused in this case. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that A1 was arrested and he is still in jail. He would submit that the petitioner is the owner of the lorry and he has transported 595 kgs. of urea belongs to A1 without any valid permission. Accordingly, the lorry was seized and he was implicated as accused. He would further submit that there is no previous case pending against the petitioner. However, he opposed to grant anticipatory bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the facts and circumstances, the petitioner is only owner of the lorry, the main allegation is only against A1, A1 was arrested and he is still in custody, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned IV Judicial Magistrate, Coimbatore, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] the petitioner shall appear before the respondent police daily at 10.30 a.m. for the period of two weeks ;

[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.

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

-sd/-
05/02/2021

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, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
GOMANGALAM POLICE STATION,
GOMANGALAM.

CC to M/S.M.MOHAMMED HASAIN Advocate on payment of necessary charges SR.NO.1187

CRL OP.1765/2021

Date :05/02/2021

RVR 11/02/2021