

Crl.O.P.No.14883 of 2015**R.SUBBIAH, J.**

The petitioner, who apprehends arrest at the hands of the respondent-police for the alleged offences punishable under Sections 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of EC Act 1955 in Crime No.62 of 2015, on the file of the respondent-police, seeks anticipatory bail.

2.This is the second anticipatory bail petition filed by the petitioner herein/1st accused. The earlier anticipatory bail petition filed by the petitioner in Crl.O.P.No.7412 of 2015 was dismissed by this Court, along with the other anticipatory bail petitions, by order dated 22.04.2015.

3.The case of the prosecution is that on 16.3.2015, the Inspector of Police, CSCID, Chennai, received a telephone message from the office of the Additional Director General of Police that Public Distribution System (PDS) rice was being illegally transported from Chennai Redhills Aerikkarai to Bangarupettai, Karnataka State via Andhra Pradesh through three lorries bearing registration Nos.AP 26 TC 7285 (TATA TARAS), AP 26 TC 2202 (TATA 1109) and AP 26 AP 7544 (TATA 1109). Based on the said message, the Inspector visited the scene of occurrence along with police party and found no lorries in that place. Due to suspicion, he inspected that place and found PDS

rice scattered in that area. From there, they went to Sri Kalahasthi, Thirupathi and Wamaneri and started to watch the lorries. At that time, based on specific information received from the office of the Additional Director General of Police, the team went to Nagamangalam and found fully loaded three lorries, parked near Nagamangalam Petrol Bunk, Wamaneri, Andhra Pradesh. On suspicion, they checked the lorries and found the rice to be PDS rice. When intercepted, the lorry drivers and cleaners tried to escape from that place. However, the police party arrested them and seized 900 bags of PDS rice containing 50 kgs each, which were illegally transported, along with the said three lorries. A10 to A15, who are the drivers and cleaners were brought to CSCID, Chennai Unit and their confession statements were recorded in the presence of witnesses. During their confession, the drivers have stated that A1 to A8 were the owners of the PDS rice and they were smuggling PDS rice from Tamil Nadu by the said three lorries with the help of A9, who is the owner of the lorries. They have also stated that the said PDS rice was sent to one Vasullah Bai (A16), Bai Mill, Bangarupet, Karnataka State. Based on the said confession statements of A.10 to A.15, a case was registered in Chennai CSCID Crime No.62 of 2015 under Sections 6(4) of TNSC (RDCS) Order 1982 r/w 7(1) a (ii) of Essential Commodities Act 1955 on 17.3.2015 at 5.00 hours and investigation was taken up. The accused 10 to 15 were produced before the Judicial Magistrate Court No.I, Thiruvallur and remanded to judicial custody. Now, the respondent-police are taking

sincere and effective steps to apprehend the other accused persons.

4. I have carefully heard the learned senior counsel appearing for the petitioner as well as the learned Public Prosecutor.

5. Keeping the submissions made on either side, I have carefully gone through the materials available on record and I find that this Court has dismissed the earlier anticipatory bail filed by the petitioner herein only on 22.04.2015 observing that the custodial interrogation of the petitioner is necessary in this case. The second anticipatory bail petition is maintainable only when there is any change of circumstances. At this juncture, it would be appropriate to refer the decision rendered by the Hon'ble Supreme Court in the case of **KALYAN CHANDRA SARKAR, ETC. .vs. RAJESH RANJAN @ PAPPU YADAV AND ANOTHER (2005(1) CTC 783)** and the relevant paragraphs are extracted hereunder:

"18. In that process a person whose application for enlargement on bail once rejected is not precluded from filing a subsequent application for grant of bail if there is a change in the fact situation. In such cases if the circumstances then prevailing requires that such persons to be released on bail, in spite of his earlier applications being rejected, the Court can do so.

19. The principles of *res judicata* and such analogous principles although are not applicable in a criminal proceedings, still the Courts are bound by the doctrine of judicial discipline

having regard to the hierarchical system prevailing in our country. The findings of a higher Court or a coordinate Bench must receive serious consideration at the hands of the Court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event, the Courts must give due weight to the grounds which weighed with the former or higher Court in rejecting the bail application. Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same it would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting.

20. The decisions given by a superior forum, undoubtedly, is binding on the subordinate fora on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application. Therefore, we are not in agreement with the argument of learned counsel for the accused that in view of the guaranty conferred on a person under Article 21 of the Constitution of India, it is open to the aggrieved person to make successive bail applications even on a ground already rejected by Courts earlier including the Apex Court of the country".

The principles laid down in the said judgment are squarely applicable to the facts of the case on hand that unless there is any material change in the factual situation or in law subsequent to the dismissal of

the earlier bail application, the second bail application cannot be considered. Having regard to the facts and circumstances of the case, I am of the view that there is no change in circumstances and hence, the present second anticipatory bail petition is liable to be dismissed.

In fine, the criminal original petition is dismissed.

09.07.2015

SSV

R.SUBBIAH, J.,

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Pre-delivery Order in
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