

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CrI.O.P.No.8013 of 2020

- 1.Mohammed Pervaze, (M/aged 62 years) (A-1),
S/o.Ibrahim,
- 2.Mohamed Muneer, (M/aged 62 years) (A-2),
S/o.Zackria,
- 3.Mohammed Yousuf, (M/aged 62 years) (A-3),
S/o.Basha,

all are having office at
No.1056/A-1, Konamedu,
Vaniyambadi – 635 751,
Vellore District.

.. Petitioners/Accused 1, 2 and 3

सत्यमेव जयते
Vs.

The State represented by,
The Sub Inspector of Police,
Vaniyambadi Town Police Station,
Vaniyambadi,
Vellore District.

.. Respondent/Complainant

(Crime No.1134 of 2020)

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioners : Mr.M.Mohammed Rafi
For Respondent : Mr.M.Jothikumar
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for alleged offence punishable under Sections 2 and 3 of The Epidemic Diseases Act, 1897, Section 51(b) of The Disaster Management Act, 2005, Section 188, 269 and 353 of Indian Penal Code, 1882 in Crime No.1134 of 2020, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant, the Revenue Inspector, Village Administrative Officer and his Assistant were checking with regard to implementation of orders issued preventing spread of COVID-19, they found the petitioners and other accused were unloading leathers from two container lorries bearing Registration Nos.TN 04 AV 8728 and TN 03 U 2378 in Hijaz Kuroda Gloves Company Private Limited, belonging to the petitioners. When the same was questioned by the defacto

complainant and others, the petitioners and other accused abused them in filthy language and threatened them with dire consequences and prevented the defacto complainant and others from discharging their official duty. On complaint, case has been registered under Sections 2 and 3 of The Epidemic Diseases Act, 1897, Section 51(b) of The Disaster Management Act, 2005, Section 188, 269 and 353 of Indian Penal Code, 1882.

3.The learned counsel appearing for the petitioners submitted that the petitioners have suspended their business activities due to the order issued under Section 144 and lock down owing to COVID-19 spread. While so, the Customs Department informed the petitioners to move the wet blue skins which were kept in the yard of Balmer Lawrie & Co. Ltd. (factory), Manali and issued “Essential Services Customs Duty Pass during COVID-19” for two vehicles bearing Registration Nos.TN 04 AV 8728 and TN 03 U 2378. Accordingly, staff of the petitioners brought the materials from the yard of Balmer Lawrie & Co. Ltd. (factory), Manali to their factory. On the day of occurrence, the staff members who were unloading the materials which were transported from the said yard as per the instructions of the Customs

Department, informed the above facts to the defacto complainant and others. They refused to listen the explanation of Manager of the petitioners and lodged a false complaint. The petitioners are innocent, they were not present in the place of occurrence, their names are falsely implicated in the present case and they are aged persons suffering with ailments. The learned counsel appearing for the petitioners further submitted that the petitioners are ready to furnish sureties and abide by any condition that may be imposed by this Court and prayed for granting anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that while the orders issued for lock down and Section 144 was in force, the petitioners transported wet blue skins and were unloading the materials in violation of orders issued by the Government. When the same was questioned by the defacto complainant and others, the accused persons abused the defacto complainant and threatened them with dire consequences. On complaint, case has been registered, investigation is pending and hence, he prayed for dismissal of the petition.

5.Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

6.Taking into consideration that petitioners have transported the materials as per the “Essential Services Customs Duty Pass during COVID-19”, which were enclosed in the typed set of papers along with the present petition, nature of allegations made against the petitioners and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate, Vaniyambadi, Vellore, on condition that the each of the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each 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 concerned Judicial Magistrate, failing which, the petition for anticipatory bail shall stand

dismissed and on further condition that:

(i) the petitioners and the sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

(ii) the petitioners shall report before the respondent Police as and when required for interrogation.

(iii) the petitioners shall not abscond either during investigation or trial. The petitioners shall not tamper with evidence or witness either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the concerned Trial Court is entitled to take appropriate action against the petitioners in accordance with law, as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court, reported in **2005 AIR SCW 5560**

(P.K. Shaji vs. State of Kerala) and

(v) If the petitioners thereafter absconds, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, this Criminal Original Petition is allowed.

29.05.2020

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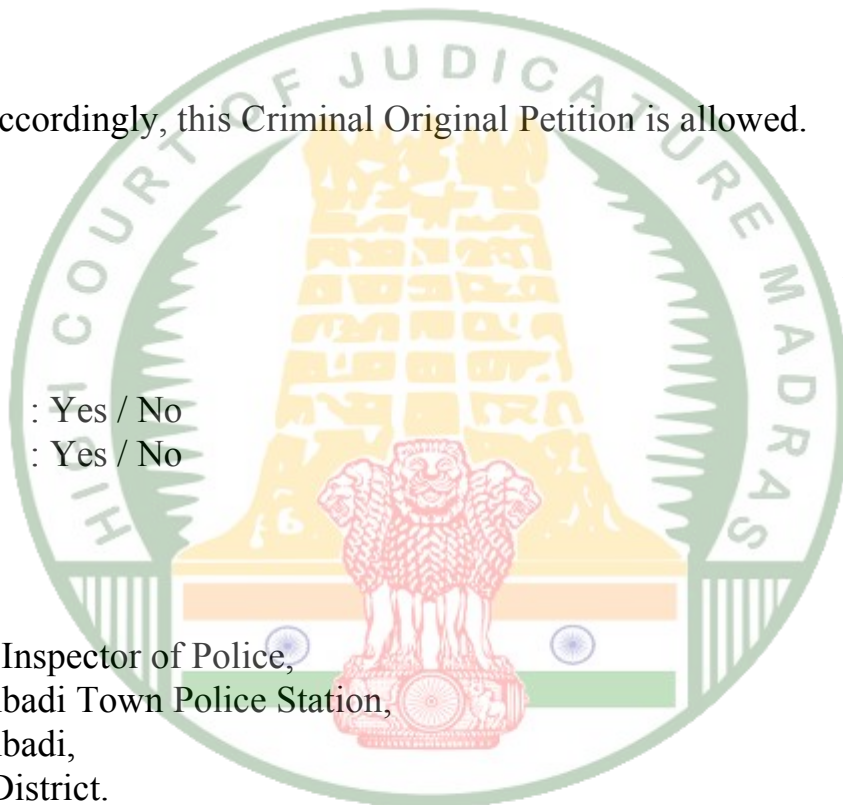
Index : Yes / No

Internet : Yes / No

To

1.The Sub Inspector of Police,
Vaniyambadi Town Police Station,
Vaniaymbadi,
Vellore District.

2.The Public Prosecutor,
High Court,
Madras.



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V.M.VELUMANI, J.,

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