

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.13969 of 2020

1.Annu @ Akbar Basha

2.K.Zammer Ahmed

wrongly shown as Jameer

... Petitioners

Vs.

The State Represented by,

The Inspector of Police,

Vaniyambadi Town Police Station,

Vellore District.

Crime No.2072 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to grant anticipatory bail to the petitioners and direct their release on bail in the event of their arrest or surrender in connection with the case in Crime No.2072 of 2020 on the file of the respondent police.

For Petitioners : Mr.J.Jackson

For Respondent : Mr.M.Mohamed Riyaz,  
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 6(4) of Tamil Nadu Schedule Commodities (RCDS) order 1982, Section 7(1) (a) (ii) of Essential Commodities Act, 1955 and Sections 336, 353 and 506(i) of IPC, in Crime No.2072 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the Taluk Supply Officer (PDS), Vaniyambadi received a secret information on 28.08.2020 that the petitioners were illegally found in possession of 28 Kgs of Ration rice, 36 Kgs of Wheat, 30 Kgs Kerosene, 58 Kgs of Sugar, House Gas Cylinder, Commercial Gas Cylinder, Electrical Weighing Machine, some cans, and 7 Ration

Cards and thereby, the respondent police registered a case against the petitioners.

3. The learned counsel appearing for the petitioners would submit that the first petitioner has been arrested and hence, this petition in respect of the first petitioner has become infructuous.

4. He would further submit that the second petitioner is concerned that he is the son of the first petitioner and that he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration of the present Covid pandemic situation, the first petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

5. The learned Additional Public Prosecutor submitted that the petitioners were illegally found in possession of 28 Kgs of Ration rice, 36 Kgs of Wheat, 30 Kgs Kerosene, 58 Kgs of Sugar, House Gas Cylinder, Commercial Gas Cylinder, Electrical Weighing Machine, some cans, and 7 Ration Cards and the first petitioner has been arrested. Hence, he opposed for the grant of anticipatory bail to the second petitioner.

6. It is seen that the first petitioner has been arrested and hence, the prayer in this petition in respect of the first petitioner has become infructuous. Accordingly, this petition is dismissed as having become infructuous in respect of the first petitioner.

7. In order to curb the illegal activities and taking into consideration the voluntary submission made by the second petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the second petitioner may be directed to donate/pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the **Commissioner of Corporation, Vaniyambadi**, without prejudice to his rights and contentions before the trial Court.

8. Merely, because the second 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.

9. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions :

[a] The second petitioner is directed to deposit a sum of Rs.25,000/- to **the Commissioner of Corporation, Vaniyambadi**, within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the second petitioner is directed to be released on bail in the event of his arrest or on his appearance and on production of proof of deposit of the above amount and on further condition that the second petitioner shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for a 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 second petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[b] the second 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 second petitioner shall report before the respondent police every Monday and Friday at 10.30 am until further orders.**

[d] the second petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second petitioner is 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.

10. With the above directions, this Criminal Original Petition is ordered in respect of the second petitioner.

11. For reporting compliance, post on 12.10.2020.

-sd/-  
09/09/2020

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,  
VANIYAMPADI

2 THE CHIEF JUDICIAL MAGISTRATE  
VELLORE DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
VANIYAMPADI TOWN POLICE STATION,  
VELLORE DISTRICT

5 THE COMMISSIONER OF CORPORATION,  
VANIYAMPADI

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

CRL OP.13969/2020

GKS:21/09/2020

Date :09/09/2020

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