

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.16436 of 2020

1.Mariyappan
2.Vasanth kumar

.. Petitioners/Accused
Rank not known

Vs.

State Rep BY,
Inspector of Police,
C.S.C.I.D, Chennai.
(Crime No: 231/2020)

..Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioners on bail in the event of their arrest in Crime No.231 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.T.Muruganantham

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 under Section 6(4) of the Schedule Commodity Order and Sec.7(1)(a)(II) of Essential Commodity Act, in Crime No.231 of 2020 on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution as per the defacto complainant is that the petitioners along with other accused were found in illegal transportation of 41,000 kgs of PDS rice. Hence, the complaint.

3 The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case based on the confession given by the co-accused. He would submit that this is the second application for anticipatory bail and the earlier application was dismissed on the ground that the arrested accused were in custody. He would further submit that as far as these petitioners are concerned, they are stated to have been collected rice from various persons and handed

over to other accused and that there is no previous case pending against them. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioners are prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to their defence and prayed for grant of anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners along with other accused were found in illegal transportation of 41,000 kgs of PDS rice. He would submit that A1 in this case has been detained under Act 14, 1982 and that as far as these petitioners are concerned there is no previous case pending against them. However, he opposed to grant anticipatory bail to the petitioners.

5 In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioners offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each, to the Commissioner, Corporation of Chennai for the purpose of using it to Amma Unavagam, without prejudice to their rights and contentions before the trial Court.

6 Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7 Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

(a) The petitioners are directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each, either through RTGS/NEFT or in cash in favour of to the Commissioner, Corporation of Chennai for the purpose of using it to Amma Unavagam, within the period of fifteen days from the date on which the order copy is made ready. Thereafter, the petitioners are directed to be released on bail in the event of their arrest or their appearance and on production of proof of payment of the above amount and on further condition that each 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 petitioners shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

[b] the petitioners 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 petitioners shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

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

[e] the petitioners 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 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 in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

9 For reporting compliance, post on 05.11.2020.

-sd/-

15/10/2020

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.I, THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
C.S.C.I.D.CHENNAI.

5 THE COMMISSIONER,
CORPORATION OF CHENNAI
(FOR THE PURPOSE OF USING IT TO AMMA UNAVAGAM)

CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges

CRL OP.16436/2020

Date :15/10/2020

RVR 21/10/2020



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