



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 02/11/2021
PRONOUNCED ON : 29/11/2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.10509 of 2021

1. K.Sangeswaran @ Sankareswaran

2. K.Rajavel ... Petitioners/Accused No.1 & 2

Vs

The state represented by
The Inspector of Police,
CSCID,
Madurai City.
Cr.No. 87 of 2021..

... Respondent/Complainant

For Petitioner : M/s.Vakeeswaran C.V.,
Advocate.

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

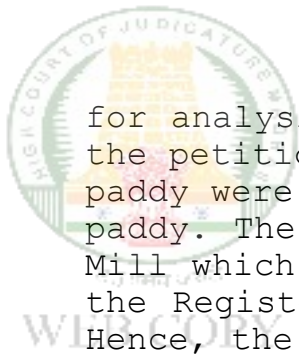
PRAYER :-

For Anticipatory Bail in Crime No.87 of 2021 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the
respondent Police for the alleged offence under Sections 6(4) of
TNSC (RDCS) Order, 1982 r/w Section 7(1)(a)(ii) of Essential
Commodities Act, 1955, on the file of the respondent Police, seeks
anticipatory bail.

2. The case of the prosecution is that on 08.07.2021, the Deputy
Collector/Regional Manager, Tamil Nadu Civil Supplies Corporation,
conducted a surprise inspection in the petitioner's Rice Mill namely
Palanimurugan Modern Rice Mill on 08.07.2021 and found excess rice
in the mill. The defacto complainant, in order to ascertain the
difference, has taken samples from 509 bags of rice kept in the Mill



for analysis and the analysis report reveals that the rice found in the petitioner mill was mixed up with old PDS rice and eight bags of paddy were found excessive in the Mill which comes around 360 kgs of paddy. The defacto complainant seized the entire paddy found in the Mill which was weighed to the tune of 1,46,969 kgs, whereas, as per the Registers, the balance of paddy stocks has to be 1,46,653 kgs. Hence, the complaint.

3. The learned counsel for the petitioners submits that the petitioners are the hulling agents and they were duly appointed by the Tamil Nadu Civil Supplies Corporation, Madurai Region. Inspection was conducted on 08.07.2021 and the analysis was made on 10.07.2021. Even before the analysis report, the defacto complainant made a complaint that 506 bags of PDS rice were mixed up with old PDS rice. On the date of inspection itself, the defacto complainant has passed an order by blacklisting the petitioner's rice mill on 12.07.2021, without issuing any notice. At that time of taking samples, the defacto complainant has not followed the statutory provisions under the Act and no show cause notice was issued before passing the order. Therefore, the entire action has been taken on malafide intention.

4. He further submits that as per Clause 25 of the Manual on Processing of Paddy, on receipt of samples from the godowns within 24 hours from the date of deposit, the Quality Control Staff incharge of the Regional Lab shall analyze the sample by observing/coding/de-coding systems through the Quality Inspector/Assistant Quality Inspector and issue Quality certificate to the Miller. The Miller, on receipt of the above said certificate, can apply for re-analysis within a period of 15 days. But the defacto complainant has sent the samples on 09.07.2021 to the Assistant Quality Inspector and the date of analysis is on 10.07.2021 which is against the clause 25 of the Manual on Processing of Paddy.

5. He further submits that as per the seizure report, the weight of the paddy was 146969 kg including the excessive eight bags of paddy. After seizure, the said paddy was sent to TNCSC Modern Rice Mill, Kadachanendhal where the weight of the said paddy was 146650 kg 515 grams. As per the register, the balance of paddy stock has to be 146653 kg. **So**, the difference of the paddy comes to 3kg and not the difference of eight bags of paddy as alleged by the prosecution.

6. The learned Additional Public Prosecutor submits that the petitioners are the hulling agents and they have procured the PDS rice from the card holders at a lesser price and the same has been mixed with old PDS rice which is yet to be supplied to the Tamil Nadu Civil Suppliers Corporation and thereby, committed the offence. He further submits that the inspection was made on 08.07.2021 and the samples were sent for analysis on 09.07.2021 and the



analysis report was obtained on 10.07.2021. Thereafter, the complaint was lodged on 13.07.2021. As such, there is no malafide on the part of the defacto complainant.

7. This is a glaring case as to how the Public Distribution System is exploited by the hulling agents and traders. The Government is spending around Rs.33 per kgs for distributing the rice to the poor people on free of costs. Whether most of the rice is consumable or not? is not known and the card holders are selling the same to the private traders for Rs.4 or 5. The traders, in turn, are re-circulating the same to this hulling agent and the paddy which has been supplied by the Tamil Nadu Civil Suppliers Corporation from the procurement centres is sold in the private markets for higher price. Since the very same rice has been circulated for years together by mixing up with fresh rice, the rice gets some odour and it is not in consumable stage. Therefore, the very object of the scheme itself is defeated. In this case, the difference of rice is 316 kgs. Hence, considering the facts and circumstances of the case, stage of the investigation and the manner in which the fraud has been committed, this Court is inclined to grant anticipatory bail to the petitioners with stringent conditions.

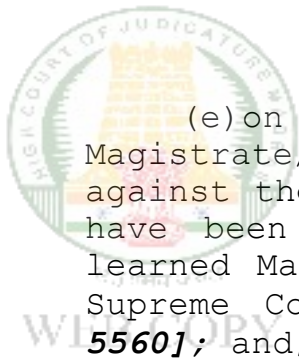
8. Accordingly, the Criminal Original Petition is allowed on condition that the petitioners shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each to the credit of Crime No.87 of 2021 before the learned Judicial Magistrate No.III, Madurai. On such deposits, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.III, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each with common sureties for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders;

(c) the petitioners shall not tamper with the evidence or witness either during investigation or trial;

(d) the petitioners shall not abscond either during investigation or trial;



(e) 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]***; and;

(f) if the accused/ petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

29/11/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE NO.III
MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE,
CBCID, MADURAI CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.VAKEESWARAN C.V. Advocate SR.No.8586

ORDER

IN

CRL OP(MD) No.10509 of 2021

Date : 29/11/2021

ssb

SS/JC/SAR-II/02.12.2021 : 4P/6C