



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30.08.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.13791 of 2022

H.Anwar Basha

... Petitioner/Sole Accused

Vs

The State rep. by
The Inspector of Police,
Ariyamangalam Police Station,
Trichy Citry.
(Cr.No.351 of 2021)

... Respondent/Complainant

For Petitioner : Mr.K.M.Karunakaran, Advocate.
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

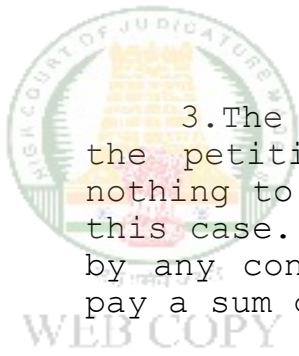
PRAYER :-

For Anticipatory bail in Crime No.351 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, apprehending arrest at the hands of the respondent Police, for the offence punishable under Sections 6(4) of TNSC (RDCS) and Section 7 (1)(a)(ii) of Essential Commodities Act, in Crime No.351 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the respondent Police, on receipt of information that PDS rice are illegally stocked at Thirumagal Rice Mill, Ariyamangalam, conducted a search. On their way, they also found PDS rice at Anwar Flour Mill and on seeing the Police party, the petitioner/accused is said to have absconded. The respondent Police, on verification, found that the accused collected PDS rice from the card-holders and converted the same as fodder for animals and sold the same for higher price. Based on the statement of the Inspector of Police, one Bharanitharan, the case was registered in Cr.No.351 of 2021



3.The learned counsel appearing for the petitioner submitted that the petitioner is hailing from a respectable family and he is nothing to do with the offence and he has been falsely implicated in this case. He further submits that the petitioner is ready to abide by any condition imposed by this Court and he is also prepared to pay a sum of Rs.1,00,000/- to any orphanage.

4.The learned Additional Public Prosecutor opposed for grant of bail stating that this is the fourth anticipatory bail petition and the earlier anticipatory bail petitions filed by the petitioner were dismissed by this Court on the ground that he is involved in three other similar cases and there is no change in circumstances to grant anticipatory bail to the petitioner.

5.This Court considered the rival submissions made and also perused the materials available on record.

6.This is the fourth anticipatory bail petition. The case was registered against the petitioner on 11.07.2021. The petitioner moved an anticipatory bail petition before this Court in CrI.O.P. (MD)No.13805 of 2021 and the same was dismissed by this Court on 17.09.2021, considering his antecedent.

7.Apart from this case, the petitioner is also involved in the following cases, which are similar in nature.

(i) Cr.No.81/2021 - u/s. 6(4) TNSCS (RDCS) 1982 r/w. 7(1)(a) of EC Act;

(ii) Cr.No.51/2021 - u/s. 6(4) TNSCS (RDCS) 1982 r/w. 7(1)(a) of EC Act;

(iii) Cr.No.221/2021 - u/s. 6(4) TNSCS (RDCS) 1982 r/w. 7(1)(a) of EC Act.

8.According to the Police, they conducted a search and found PDS rice at the petitioner Anwar Flour Mill and also recovered 29 bags of PDS rice from his mill and on seeing the Police, the petitioner/accused absconded from the Mill.

9.Though the case was registered on 11.07.2021, the respondent Police has not filed their final report so far and has also failed to take any step to secure the petitioner/accused. Considering the antecedent of the petitioner, this Court dismissed the earlier anticipatory bail petition filed by the petitioner in CrI.O.P.(MD) No.13805 of 2021 on 17.09.2021. Even then, the respondent Police has not taken any step to arrest the petitioner.

10.The respondent Police recovered 29 bags of PDS rice from the petitioner Flour Mill. Apart from this case, the petitioner is also involved in three other cases, which are similar in nature. In the



year 2021 alone, he involved in four cases. According to the Police, the petitioner collected PDS rice from the card-holders, converted the same as fodder for animals and sold the same for higher price.

11.The Government is spending huge amount for the supply of rice at free of cost to the citizens not having sufficient means. The officials, who are in-charge of distribution system, are not ensuring the quality of rice. Even according to the prosecution, these poor people are selling the rice to the accused and they are converting the same as poultry feed as if it is not meant for human consumption. The respondent Police is also registering the cases for statistical purpose and not even attempting to arrest the accused. The fact remains that the Government is spending Rs.35/- per kilogram for PDS rice.

12.The petitioner, who is running a Flour Mill, is indulged in four cases in the year 2021 alone. Even then, the respondent Police has not taken any step to secure the accused. This Court, by order dated 03.08.2022, sought a report from the Commissioner of Police, Trichy, on the steps taken by the Investigating Agency to secure the accused. However, the Commissioner of Police, Trichy, has not filed his report till date. The attitude of the respondent Police and the Commissioner of Police expose the manner in which the Law Enforcement Agency are taking appropriate steps to curb this offence. This attitude of the police is also one of the reasons for these accused to indulge in similar offence continuously. In this Independent Country, we are enjoying all rights without realizing our duties, more particularly, the Government Officials. If the higher officials realize their duties and responsibilities, we can expect the same from their subordinates also. When the higher officials themselves are irresponsible, we cannot expect the same from the Inspector of Police.

13.The petitioner has also come forward to abide by any condition including to pay a sum of Rs.1,00,000/- to any orphanage. This condition, in fact, is very convenient for the accused to share some of their profits to some orphanage, so that, they can indulge in their illegal business and make more profits.

14.The petitioner is a rice mill owner making huge profits with PDS rice and also indulging in similar offences, however, the respondent Police is not taking any step to secure the accused and therefore, the accused is filing repeated anticipatory bail petitions. Therefore, in view of the slackness on the part of the respondent Police and upon the undertaking given by the petitioner that he is ready to abide by any condition including to serve at Gandhi Museum, this Court is inclined to grant anticipatory bail to the petitioner with the following condition.



16. This Criminal Original Petition is allowed. The petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.VI, Trichy, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner 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 petitioner shall report before the Secretary, Gandhi Museum, Madurai, at 10.00 a.m. and execute the works allotted by the Secretary, till 05.00 p.m. for a period of thirty days, commencing from 07.09.2022 to 07.10.2022. The petitioner, during his stay at Gandhi Museum, shall utilize the library in the Museum and prepare 50,000 pamphlets, on his own costs, on Gandhian thoughts and values, under the guidance of the Secretary and distribute the same to the general public, school students, etc., who are all visiting the Museum. While distributing the pamphlets, the petitioner should explain the Gandhian thoughts and values to the visitors. The petitioner shall maintain utmost discipline inside the campus, in accordance with the Museum's guidelines. After completing the thirty days period, the petitioner shall file an affidavit before this Court as to his experience in the Gandhi Museum and the impacts of Gandhian thoughts on him. The Secretary, Gandhi Museum, Madurai, shall ensure that the conditions imposed by this Court is strictly adhered to by the petitioner and shall also file a report before this Court as to the compliance by the petitioner on or before 10.10.2022. If the petitioner violates any of the conditions imposed on him or misbehaves inside the Gandhi Museum, the Secretary shall bring the same to the knowledge of this Court, without any delay;

[c] the petitioner shall report before the respondent Police as and when required for interrogation;

[d] the petitioner shall not abscond during the investigation or trial;

[e] the petitioner shall not tamper with the evidence or witness 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner is released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble



5560] and

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

Post the matter on 10.10.2022 for reporting compliance.

sd/-

30/08/2022

/ TRUE COPY /

/09/2022

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.VI, TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE, ARIYAMANGALAM POLICE STATION,
TRICHY CITY, TRICHY DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

- 1 THE DIRECTOR GENERAL OF POLICE, TAMIL NADU, CHENNAI.
 - 2 THE COMMISSIONER OF POLICE, TRICHY.
 - 3 THE SECRETARY, GANDHI MUSEUM, MADURAI.
- +1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-9286[I] dated 30/08/2022)

ORDER

IN

CRL OP(MD) No.13791 of 2022

Date :30/08/2022

ogy

RS/VR/SAR.1 (05.09.2022) 5P-9C