



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.02.2022

Delivered on : 16.02.2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP (MD) . No.17152 of 2021

1. S.Sithiah
2. S.Kala

... Petitioners/Accused

Vs

State rep.by
The Sub Inspector of Police,
CSCID-Virudhunagar,
Madurai District.
(Crime No.152 of 2021).

... Respondent/Complainant

For Petitioners: M/s.H.Arumugam, Advocate for
M/s.P.P.Alwin Balan, Advocate.

For Respondent : M/s.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.152 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 6 (4) of T.N.Scheduled Commodities (RDCS) Order, 1982 and 7(1)(a)(ii) of Essential Commodities Act, 1955, in Crime No.152 of 2021, seek anticipatory bail.

2.The case of the prosecution is that on 23.10. 2021 at about 7.00AM, the Special Tahsildar of Flying Squad, upon receiving the secret information that quantum of 5.5 tones of ration rice, meant for public distribution was at Sri Sankaranarayana Modern Rice Mill, he went along with the Sub-Inspector of Police of the Criminal



Investigation Team and found that the accused have illegally stocked 5050 kgs of "Par Boiled Rice" and 400 kgs of "Black Kurunai Par Boiled Rice". Hence the complaint.

3. The case of the petitioners is that they are the hulling agents of Tamil Nadu Civil Supplies Corporation, that after registration of case in Cr.No.123 of 2021, the Assistant Manager, Quality Control and Regional Manager, TNCSC, inspected the mill premises on 07.09.2021 and verified the stock, that the inspection report revealed that 2915 bags alone were found and there was shortfall of 302 bags, that the petitioners had sent a representation on 20.10.2021, to the Managing Director of TNCSC that there was discrepancy in the inspection report and they came to know that apart from 302 bags of paddy, approximately 5050 kgs of rice was in stock and that through his representation, had requested the permission to hand over the same, but the respondent without considering the above, has filed the present case.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side).

5. No doubt, admittedly the petitioners' mill was declared as Hulling Agent of TNCSC. Earlier, when the petitioners have sent the paddy received from the TNCSC to some other third party Mill, to make unlawful gain and in violation of the agreement entered between them, FIR came to be registered in Crime Number 123 of 2021, under Section 4 of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order 1964 and Section 7(1)(a)(ii) of Essential Commodities Act.

6. In that case the petitioners have taken a stand that after receiving the paddy from TNCSC, they apprehended some shortage in the paddy and in order to ascertain the same, they had reloaded the paddy in the very same vehicle and transported the same to weigh Bridge. Subsequently they had also taken a stand that since the bags were found to be torn out, some were repacked in another bag and sent to Weigh bridge for ascertaining the weight and at that time, the respondent police has mechanically registered the case.

7. When the petitioners have moved before this court for anticipatory bail, this court has directed the petitioners to appear before the Investigating Officer and also directed the Investigating Officer to file a report and in pursuance of the same, the Investigating Officer has filed a report stating that the petitioners have not given any proper reason, as to number of bags supplied by TNCSC on that day and how many bags were found in damaged condition. Considering the report and other aspects, this court by considering that the time in which the paddy has been transported, the manner in which the paddy has been repacked, time taken for re-loading, held that a *prima facie* case was made out as against the petitioners, but since the petitioners were declared as Hulling Agents, this Court was inclined to grant anticipatory bail,

directing them to deposit and depositing a sum of Rs.1,00,000/- each to the credit of the case number.

8.The main contention of the petitioners is that on 20.10.2021, the petitioners had given the representation to the Managing Director of the TNCSC that there was discrepancy in the Inspection Report and also stated that the entire stock was not taken, which led to the wrong conclusion. The learned counsel for the petitioners would submit that they have also furnished the particulars in tabular column and wherein it has been stated that apart from 302 bags of paddy, 5 tones and 150 kgs were available and that they may be permitted to hand over the said stock with TNCSC Godown and that before receiving any orders from the Managing Director of TNCSC and before handing over the said stock available in the mill, the Special Tashildar of Flying Squad had visited the mill premises and by alleging that the petitioners have illegally stocked PDS rice, preferred the above complaint.

9.As rightly pointed out by the learned Government Advocate (Criminal side), the Assistant Manager Quality Control and Regional Manager, TNCSC had inspected the petitioners' mill premises on 07.09.2021 and after verifying the stock submitted the inspection report. But even according to the petitioners, they have sent a representation only on 20.10.2021, after the lapse of 43 days, alleging the availability of stock and hence the contention of the petitioners that the case was registered under the misconception, cannot be accepted at this stage. But at the same time, considering the nature of charges levelled against the petitioners and also taking note of the fact that custodial interrogation is not necessary and also considering the age of the petitioners, this Court is inclined to enlarge the petitioners on anticipatory bail, with certain conditions

10.Accordingly, 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.I, Virudhunagar, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

a)the petitioners shall deposit a sum of Rs.25,000/- (**Rupees Twenty Five Thousand only**) each to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties.



b)the petitioners shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) each to the credit of the Crime No.152 of 2021, before the Trial Court, within a period of two weeks from the date of receipt of the order copy;

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c) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

d)the petitioners shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation;

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

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

g)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 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;

h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
16/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

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.



1. THE JUDICIAL MAGISTRATE NO.I,
VIRUDHUNAGAR.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3. THE SUB INSPECTOR OF POLICE,
CSCID,
VIRUDHUNAGAR POLICE STATION,
MADURAI DISTRICT.

4 COPY TO:
THE OFFICER INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT, CHENNAI-9.

+1. CC to M/S. ALWIN BALAN.P.P. Advocate SR.No.

ORDER
IN
CRL OP (MD) No.17152 of 2021
Date :16/02/2022

SP/VR/SAR /24/02/2022/2P/5C