



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 02/03/2023

PRESENT

The Hon'ble Mr.Justice A.D.JAGADISH CHANDIRA
Crl.OP(MD)No.10886 of 2022

WEB COPY

P.Sivasubramaniyan

... Petitioner/Sole Accused

Vs.

State Rep.by
The Inspector of Police,
Civil Supplies Crime Investigation Department,
Thoothukudi.
(Crime No.89 of 2022)

... Respondent/Complainant

For Petitioner	: Mr.D.Shanmugaraja Sethupathi
	Advocate
For Respondent	: Mr.P.Kottai Chamy
	Government Advocate (Criminal side)

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

PRAYER:-

For Anticipatory Bail in Crime No.89 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as sole accused apprehending arrest at the hands of the respondent police for the offences punishable under section 7(1)(a)(ii) of the Essential Commodities Act, 1955 and sections 6(3) and 6(4) of the Tamil Nadu Scheduled Commodities Act (RDCS) Orders, 1982, in Crime No.89 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant is the Deputy Registrar of the Cooperatives Societies (PDS), Thoothukudi. He lodged a complaint stating that 40 bgs of PDS rice, 76 bags of boiled rice and 5 bags of wheat were found stored in the Veterinary Hospital building maintained by the Kulaiyankaraisal Panchayat, on 31/03/2022. The above said foodgrains were seized and handed over to the Department. Verification of the stock register showed that it was not found place in the stock register. When enquiry with the above said Panchayat President and Officer in charge of the above said Veterinary Hospital revealed that the accused person namely P.Sivasubramainiyam, who was working as salesman had obtained hospital key in December 2021 and stored the food grains unofficially. Due to that the accused was placed under suspension, on 28/04/2022. On the basis of the above said complaint, a case in Crime No.89 of 2022 was registered, on 31/03/2022.



3.The learned counsel for the petitioner would submit the petitioner is innocent and he has been unnecessarily implicated in the case. The petitioner was transferred from the fair price shop on 28.02.2022 and thereafter he had handed over the charge to his successor on 01.03.2022 itself and the stock verification report is dated 01.03.2022 and in the meanwhile due to lack of space, the food grains were stored in the veterinary hospital and later based on the complaint, departmental enquiry was initiated against him and apart from that, recovery order was issued against the petitioner and the petitioner has challenged the recovery order and it was also set aside by this Court and petitioner's suspension order has also been revoked. He would also submit that this Court has also granted interim protection to the petitioner on 13.07.2022 pursuant to which the petitioner has appeared before the respondent for enquiry. He would also submit that there is no loss to the department. The only allegation is that stock was stored in a different place other than the fair price shop and that no other allegation is attributed against the petitioner and the petitioner is ready to co-operate for investigation. He would pray for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the petitioner was responsible for the change of storage place and instead of storing the stock at the fair price shop he had stored it in a veterinary hospital. Hence, he oppose for grant of anticipatory bail.

5.Heard and perused the materials available on record. Taking into consideration the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, 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 on which the order copy made ready, before the learned Judicial Magistrate No.IV, Thoothukudi, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner 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.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.



[c] the petitioner shall not tamper with evidence or either during investigation or trial.

[d] the petitioner 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 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]**.

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

sd/-

02/03/2023

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

CM

To

- 1 THE JUDICIAL MAGISTRATE NO.IV, THOOTHUKUDI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
CIVIL SUPPLIES CRIME INVESTIGATION DEPARTMENT, THOOTHUKUDI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.D.SHANMUGARAJASETHUPATHI, Advocate (SR-3325[I] dated 03/03/2023)

ORDER

IN

CRL OP(MD) No.10886 of 2022

Date :02/03/2023

RS/SBN/SAR-1(16.03.2023) 3P 6C