



CRL OP(MD). No.16654 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 11/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. B.Shameer

2. * Syad Thahear

... Petitioners / Accused Nos.6 & 7

Vs

State rep by its
The Inspector of Police,
CSCID Unit,
Tirunelveli Police Station,
Madurai.
(In Crime No.229 of 2023).

... Respondent / Complainant

For Petitioners : M/s.Susi Kumar.C, Advocate.

For Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime no.229 of 2023 on the file of the Respondent Police.



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ORDER: The Court made the following order :-

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The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under sections 6(4) of Tamil Nadu Scheduled Commodities (RDCS) Order 1982 r/w. 7(1)(a)(ii) of Essential Commodities Act, 1955 in Crime No.229 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on receiving a secret information, the respondent police conducted vehicle check up and at that time, the petitioners herein and other accused have illegally transported 4000 Kgs of PDS rice in 80 Gunny bags. Hence, the case.

3.The learned counsel appearing for the petitioners submitted that petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case.

4.The learned Government Advocate (Crl. side) appearing for the respondent submitted that the petitioners herein and other accused have illegally transported 4000 Kgs of PDS rice in 80 Gunny bags. He would further submit that the investigation of the case is pending.

5. On perusal of the FIR, it is noticed that based on the confession of co-accused only the petitioners herein are arrayed as accused and no property was



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recovered from these petitioners.

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6. Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)4 SCC 260, this Court is of the considered view that the alleged offence against the petitioners are not a case of heinous crime. Further, the petitioners are having permanent resident at Kuruvithara, Panachamoodu Post, Vellarada, Thiruvananthapuram, Kerala State and the origin of the crime is transportation of PDS rice. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not to be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused have their roots in the community and is not likely to abscond, they can safely be released on his own bond.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date



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on which the order copy made ready, before the learned Judicial Magistrate No.II, Thirunelveli, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like 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 sureties shall affix the photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[b] the petitioners shall report before the trial Court as and when required for the purpose of interrogation.

[c] the petitioners shall not tamper with 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].



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[f] If the accused thereafter absconds, a fresh FIR can be registered under

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Section 229A IPC.

sd/-
11/10/2023

(*) Amended as per order of this Court in CRL
MP(MD)Nos.16010 & 16015/2023 in CRL OP
(MD).16654/2023 dated 20.11.2023

Time limit for producing the sureties before the
Court is extended by two weeks, from the date of
receipt of a copy of this order.

/ TRUE COPY /

/12/2023

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

TRP

To

TO BE SUBSTITUTED WITH THE ORDER ALREADY DATED 11/10/2023
ALREADY DESPATCHED.

1.The Judicial Magistrate No.II,
Tirunelveli.

2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
CSCID Unit,
Tirunelveli Police Station,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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+1 CC to M/s.C.SUSI KUMAR, Advocate (SR-16574[I] dated 21/11/2023)

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ORDER
IN

CRL OP(MD) No.16654 of 2023

Date :11/10/2023

ED/VRS/SAR- (20/10/2023) 6P / 6C

ED/JGB/SAR- (15/12/2023) 6P / 6C

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