



**IN THE COURT OF THE II ADDL. DISTRICT & SESSIONS
JUDGE, UTTARA KANNADA, KARWAR.**

DATED THIS THE 14th DAY OF NOVEMBER-2022

CRIMINAL MISC.CASE NO.447/2022

PRESENT:

Sri. Ganesha B.,
B.Sc., L.L.M.,
II ADDL., District & Sessions Judge,
Uttara Kannada, KARWAR.

PETITIONER:

Mohammad Sameer S/o. Mahammad Basha,
Age:25 years, Occ: Coolie,
R/o. #119, Puravarga, Yelwadikavur,
Taluk: Bhatkal (U.K.)

(By Sri. B.K.N., Advocate.)

Vs.

RESPONDENTS:

1. The State
Represented by Public Prosecutor,
Karwar.
2. The PSI, Karwar Rural Police Station,
Bhatkal

ORDER

The counsel for the petitioner/accused has filed the present bail petition under Section 438 of Cr.P.C., seeking anticipatory bail in the event of her arrest in Bhatkal Rural police station

crime No. 76/2022 for the offences punishable under Sections 3 & 7 of Essential Commodities Act.

2. The petitioner/accused has contented in his application that he is innocent and he has not committed any offences as alleged by the police. He is the permanent resident of Puravarga, Yelwadikavur, Bhatkal Taluk and the petitioner/accused is working under accused No.1 and the police is searching for the petitioner to arrest him in connection of above crime and thereby, the petitioner/accused is apprehension of arrest of the petitioner by the police and therefore, the offences alleged against petitioner/accused are though non-bailable, but they are not punishable either with death or imprisonment for life. Further, the petitioner is a sole bread earner in his family. Further, the petitioner/accused is also ready and willing to co-operate with the investigating officer and further, undertakes that she will not tamper with the prosecution witnesses and he has also undertakes to abide by the conditions that will be imposed against him, by the court and prayed to grant conditional bail.

3. The learned Public Prosecutor has filed objection ascertaining the complaint allegations and contending that there are prima-facie materials available on record regarding commission of alleged offences by the accused and further

stated that the petitioner/accused along with other was illegally storing the controlled rice which is meant for ration card holders to an extent of 44,150 kg., worth about Rs. 10,21,189/- in godown of accused No.1 without any license or permit and used to dispose of the same in the open market and on credible information when the complainant has raided on 22.7.2022, he has seized those rice along with 110 gunny bags used to fill the rice and also two sewing machine, a weighing machine through mahazar and thereafter, after returning to the police station, the complainant has lodged the complaint against the petitioner/accused. Further stated that the investigation is still in progress and in case the petitioner/ accused is released on bail then he may tamper the prosecution witnesses and he may hamper the trial and there is a chance of absconding. On these grounds, among other grounds it is prayed for dismissal of the bail petition.

4. Heard the arguments canvassed by the learned counsel for the petitioner/accused and the Public Prosecutor.

5. At this stage the following points would arise for my consideration:

- 1) Whether the petitioner/accused has made out sufficient grounds for enlarging him on anticipatory bail in the event of his arrest in Bhatkal Rural Police Station Crime No.76/2022?

2) What Order?

6. The findings of the Court on the above points are as under:

Point No.1: In the [Affirmative](#)

Point No.2: As per final order,
for the following:

REASONS

7. **Point No.1:** I have perused the records. Admittedly, Bhatkal Rural police have registered the case against the present petitioner/accused in crime No.76/2021 for the offences punishable under Sections 3 & 7 of Essential Commodities Act. The contents of the complaint discloses that the petitioner/accused along with other was illegally storing the controlled rice which is meant for ration card holders to an extent of 44,150 kg., worth about Rs. 10,21,189/- in godown of accused No.1 without any license or permit and used to dispose of the same in the open market and on credible information when the complainant has raided on 22.7.2022, he has seized those rice along with 110 gunny bags used to fill the rice and also two sewing machine, a weighing machine through mahazar and thereafter, the complainant has lodged the complaint to the police and the Bhatkal Rural police have registered the case against the accused for the offences stated above.

8. The counsel for the petitioner/accused has argued that the petitioner/accused has been falsely implicated in this case and he has not committed any offences alleged against him and the offences alleged though non-bailable but not punishable with death or imprisonment for life. Further, the accused No.1 under whom he is a worker is already released on bail. Thereby, the petitioner/accused is the permanent resident of Puravarga, Yelwadikavur, Bhatkal Taluk and the chances of absconding from the investigation is very remote and the accused undertakes to abide by the conditions that may be imposed by against him. Hence, he has prayed to allow the petition by imposing necessary conditions.

9. The learned Public Prosecutor has argued that the petitioner/accused has committed the offences against her and therefore, the offences alleged against the accused are prima facie made out and the IO has collected the sufficient evidence so as to establish the same and by granting anticipatory bail, the investigation will be hampered and the possibility of abscondence of the accused from the investigation and tampering the prosecution witnesses cannot be ruled out. Therefore, the PP has prayed to reject the bail application.

10. After hearing the arguments advanced by the counsel for the petitioner/accused and also the learned Public

prosecutor and on careful reading of the case papers it will disclose that the petitioner/accused along with other was illegally storing the controlled rice which is meant for ration card holders to an extent of 44,150 kg., worth about Rs. 10,21,189/- in the godown of accused No.1 without any license or permit and used to dispose of the same in the open market and on credible information when the complainant has raided on 22.7.2022, he has seized those rice along with 110 gunny bags used to fill the rice and also two sewing machine, a weighing machine through mahazar and thereafter, the complainant has lodged the complaint to the police and the Bhatkal Rural police have registered the case against the accused for the offences punishable U/sec. 3 & 7 of Essential Commodities Act.

11. However, the accused has filed this application and prayed to enlarge him on anticipatory bail apprehending arrest and he is ready to offer sufficient surety for his appearance and availability for the investigation. However, the Public Prosecutor has opposed the same, saying that his release will hamper the investigation. Under these circumstances, whether the petitioner/accused has committed the above alleged offences or not, has to be thrashed out at the trial and therefore at this stage, the court has to consider whether the presence of the accused can be secured and whether the presence of the

accused is required for investigation. In this aspect of matter, it is evident from the case papers that the investigation is not yet completed and further, the accused No.1 under whom the present petitioner/accused is working is already enlarged on bail by this court. Therefore, since the petitioner/accused is the permanent resident of Puravarga, Yelwadikavur, Bhatkal taluk and by imposing suitable conditions his presence can be secured at the time of investigation and also at the time of trial and therefore, merely because the investigation is pending, the same is not a ground for rejection of the bail and further, as rightly argued by the counsel for the petitioner/accused that though the offences alleged against the accused are non-bailable but they are not either punishable with death or imprisonment for life. Therefore, the objection raised by the prosecution can be met with by imposing suitable conditions. Under these circumstances, I am of the opinion that it is just and necessary to grant the anticipatory bail to the petitioner/accused by exercising the discretion of this court by imposing certain conditions. Hence, I proceed to hold the above point No.1 in the **Affirmative**.

12. **Point No.2:** In view of findings on point No.1, I proceed to pass the following:

:ORDER :

The anticipatory bail petition filed under Section 438 of Cr.P.C by the petitioner/accused is hereby allowed.

- i) In the event of arrest of the petitioner/accused, the concerned police are hereby directed to release the accused on bail on execution of bail bond for Rs. 1,00,000/-, with two sureties for like sum.
- ii) The petitioner/accused shall mark his attendance before the investigating officer on every Sunday commencing from 27.11.2022 between 10.00 am.,to 5.00 pm., till charge sheet is filed.
- iii) The petitioner/accused shall appear before Investigating Officer whenever she is called for investigation and shall co-operate in the investigation.
- iv) The petitioner/ accused shall not tamper with the prosecution evidence as well as witnesses.

In case of any of these conditions are violated the prosecution is at liberty to seek for cancellation of bail.

(Dictated to the Stenographer directly on computer, typed by her, revised and corrected by me, signed and then pronounced in the Open Court on this the **14th Day of November -2022**)

(Sri. Ganesha B.)
II Addl. District & Sessions Judge,
Uttara Kannada, Karwar.

Order pronounced in the open court
vide detailed order.

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II ADDL. District & Sessions Judge,
Uttara Kannada, Karwar.