



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Third day of November Two Thousand Fifteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.17965 of 2015

1 SURESH
2 PERIANNAN
3 SELVAM

..PETITIONERS/ACCUSED 1 TO 3

Vs.

STATE REP.BY THE FOREST RANGE OFFICER
DEVADHANAPATTI FOREST RANGE,
DEVADHANAPATTI.
W.L.O.R.NO.3 OF 2015

..RESPONDENT/COMPLAINANT

For Petitioner : M/S SIVA AYYAPPAN ASSOCIATES Advocate

For Respondent : Mr.K.ANBARASAN, Government Advocate (Crl.Side)

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

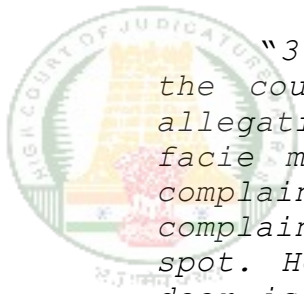
ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused Nos.1 to 3, apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 9 of Wildlife (Protection Act) 1972 in W.L.O.R.No.3 of 2015 on the file of the respondent police and hence, seek anticipatory bail.

2. The case of the prosecution is that on receiving secret information that Sambar deer has been hunted by unknown persons and the same is brought via., Periakulam Sothuparai Road, on 03.09.2015, the respondent has intercepted two unknown persons riding in a two wheeler and they did not stop the vehicle and later on, the respondent found the bike and a blue plastic box near Periyakulam - Sothuparai Road and on inspection, the blue colour plastic box contained flesh of Sambar deer.

3. The learned Government Advocate (Crl.side) submitted that one of the accused Rajamani was arrested on 15.10.2015 at 5.30 a.m. and during investigation, he confessed that the first petitioner informed his father, third accused herein over phone about hunting of Sambar deer and to take the flesh of Sambar deer. It is further submitted that based on the information, the said Rajamani and A3 gone to that place with bike bearing Registration No.M 80 TN 60 7564 and a plastic blue box. The learned Government Advocate (Crl.side) further submitted that the petitioners are having previous case of similar nature and the investigation is not completed and if the petitioners are released on bail, they will tamper the investigation.

4. The learned counsel for the petitioners submitted that with regard to the previous case, it is only a case of trespass into the forest land with cattle. The learned counsel for the petitioners relied on the decision of the Hon'ble Supreme Court in <https://www.mca.gov.in/secure/india/sec...> passed by the High Court of Karnataka. In Criminal Petition No.4925 of 2014, in paragraph Nos.3, 4, 5, 6 and 7, it is stated as follows:



3. Learned Counsel appearing for the petitioners, during the course of the arguments, submitted that so far as the allegation of hunting of deer is concerned, there is no prima facie materials placed by the prosecution. According to the complaint averments, it is the allegation that after seeing the complainant and his staff, the petitioners ran away from the spot. He made submission that regarding horn and meat of the deer is concerned, it is not the case of the prosecution that the petitioners were carrying the same along with them while running away from the place. It is contended that the petitioners will co-operate with the investigating officer during investigation and hence, they may be enlarged on bail by imposing reasonable conditions.

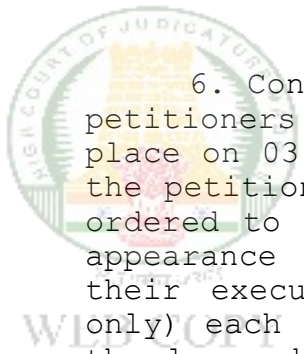
4. As against this, learned High Court Government Pleader appearing for the respondent-State, during the course of the arguments, submitted that it is the petitioners who killed the deer in the forest area and they were having horn and meat. After seeing the complainant and his staff, they ran away from the place. The learned HCGP made submission that it is necessary for the investigating officer to interrogate the petitioners. He submitted that the matter is still under investigation and at this stage, the petitioners are not entitled to be released on bail.

5. I have perused the averments made in the bail petition and the other materials on record. I have also perused the order passed by the lower court on the bail application.

6. Looking to the prosecution materials, it goes to show that after receiving credible information, the police visited the house of the petitioners and found the meat and horn of the deer which was cooked and some portion uncooked. The prosecution materials go to show that the meats well as horn has been seized by the respondent police from the house of the petitioners. Therefore, as submitted by learned Counsel for the petitioners, seizure aspect is already completed and nothing further is to be seized at this stage. The alleged offences are not exclusively punishable with death or imprisonment for life. The petitioners have undertaken that they are ready to abide by any condition that may be imposed by this Court. Therefore, looking to the materials on record, by imposing reasonable conditions, the petitioners can be admitted to anticipatory bail.

7. In the result, the petition is allowed. The respondent police are directed to release the petitioners on bail in the event of their arrest for the offences punishable under Sections 9, 39, 49(B), 50, 51 of Wild Life Protection Act, 1972 registered in respondent FOC No.1/2014-15."

5. The learned counsel for the petitioners also relying on the order passed by the High Court of Karnataka in Criminal Petition No.3438 of 2013 dated 19.06.2013 and submitted that if the petitioners are arrested, they will be put hardship and they will abide by any conditions imposed by this Court



6. Considering the judgment relied on by the learned counsel for the petitioners and considering the fact that the alleged incident taken place on 03.09.2015, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance before the learned Judicial Magistrate, Periyakulam and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and the petitioners shall appear before the respondent police daily at 10.00 a.m. until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

7. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy is made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
03/11/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1 THE JUDICIAL MAGISTRATE, PERIYAKULAM, THENI DISTRICT.

2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE, THENI.

3 THE ADDL.PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4 THE FOREST RANGE OFFICER, DEVADHANAPATTI FOREST RANGE,
DEVADHANAPATTI, THENI DISTRICT.

+1. CC to M/S SIVA SUBRAMANIAN, Advocate SR.No.64592

ORDER IN
CRL OP(MD) No.17965 of 2015
Date :03/11/2015

PBK/GSV-PM/SAR-II 05/11/2015 ::3P-6C::