

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9610 of 2020

Markandan

.. Petitioner

/versus/

State Represented by
The Forest Range Officer,
Pallalakuppam Division,
Pernampet Range, Vellore District,
W.L.O.R.No.6 of 2020. .. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail in respect of W.L.O.R.No.6 of 2020 pending investigation on the file of the Forest Range Officer, Pallalakuppam Division, Pernampet Range, Vellore District.

For Petitioner : Mr.D.Rajagopal

For Respondent : Mr.K.Prabhakar,
Addl Public Prosecutor
[IN CRL.OP.NO.9610 OF 2020]

For Respondent : MR.M.MOHAMED RIYAZ, ADDITIONAL
PUBLIC PROSECUTOR
[IN CRL.MP.NO.4418 OF 2020
IN CRL.OP.NO.9610 OF 2020]

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 30.05.2020 for the alleged offences punishable under Sections [*]21 d & h of Tamil Nadu Forest Act 1882, 9(1) and 51 of Forest Animal Protection Act 1972, 429 IPC and 9(B), 1(b) of Explosive Act 1884, and 286 IPC 9(B), 1(b) Explosive Act 1884 r/w 5 of Explosive Substance Act, 1908 in W.L.O.R.No.6 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant/ the Forest Range Officer, Pallalakuppam Division, Pernampet Range is that the petitioner was found to have trespassed into the Reserve Forest Area and he was found in possession of 16 country made explosives. On enquiry, it was found that the petitioner had trespassed into the Reserve Forest Area to hunt the wild animals and boars by using these explosives.

3. The learned counsel for the petitioner would submit that the petitioner is an agricultural coolie and he was arrested near the border of the Reserve Forest Area and he has been falsely implicated in this case. On instruction, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit some considerable amount to any charitable organization or association and that the petitioner has been suffering incarceration from 30.05.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor for the respondent would submit that the petitioner was found to have trespassed into the Reserve Forest Area and he was found in possession of 16 country made explosives, which he had carried with an intent to hunt wild animals. He would further submit that there is no previous case as against the petitioner.

5. In view of the fact that there is no previous case against the petitioner and in order to curb the illegal hunting activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Madras High Court Advocate Clerks Welfare Association, High Court, Madras and also taking note of the fact the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner, subject to the following condition:

(a) the petitioner shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Madras High Court Advocate Clerks Welfare Association, High Court, Madras, bearing A/c No. 484077244, Indian Bank, High Court Branch, Chennai, IFS Code - IDIB000M157 and on such deposit and production of proof, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Gudiyatham, within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall report before the respondent every day at 10.30 a.m for a period of two weeks and thereafter, every Monday at 10.30 a.m. until further orders.

(e) the petitioner to furnish the correct details of address along with mobile number to the Investigating Officer and to the concerned Court.

(f) the petitioner shall not commit any offences of similar nature;

(g) the petitioner shall not abscond either during investigation or trial;

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
02/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

[*] Amended as per order of this Court dated 09/07/2020 made in CRL.MP.NO.4418 OF 2020 IN CRL.OP.NO.9610 OF 2020

TO

1 THE JUDICIAL MAGISTRATE,
GUDIYATHAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE FOREST RANGE OFFICER,
PALLALAKUPPAM DIVISION,
PERNAMPET RANGE,
VELLORE DISTRICT.

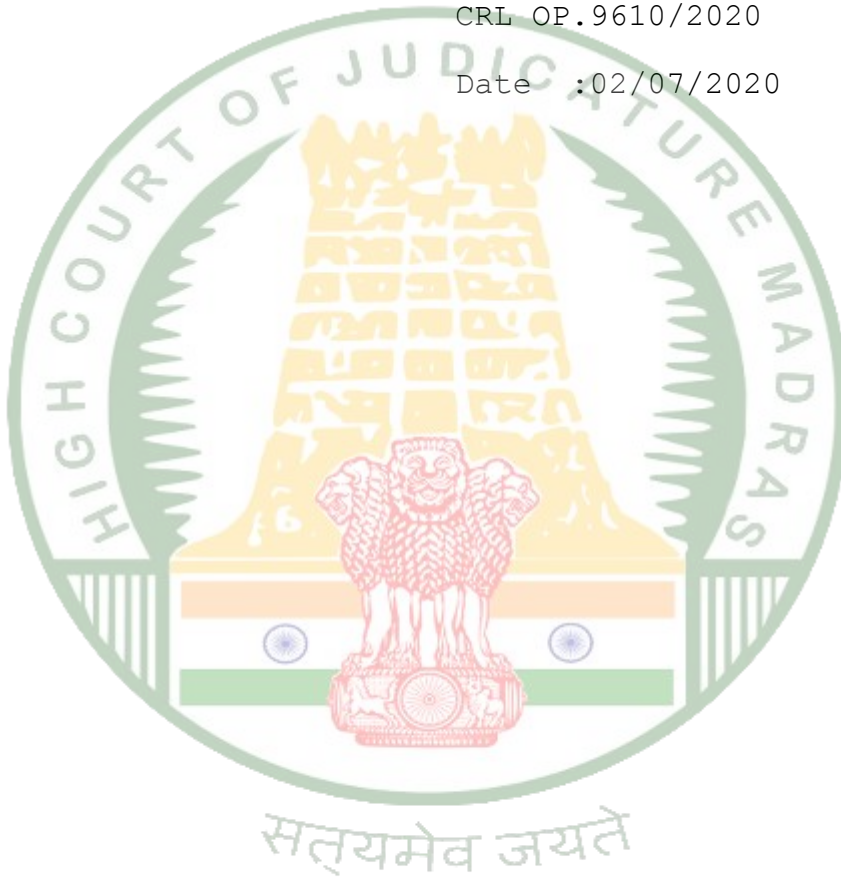
CC to M/S.D.RAJAGOPAL Advocate on payment of necessary
charges

CRL OP.9610/2020

Date :02/07/2020

MK:17/07/2020

MK:17/07/2020



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