

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2020

CORAM :

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

CRL.O.P.No.14856 of 2020

G.Vijayakumar
S/o.Ganapathy

... Petitioner

Vs.

State: Represented by;
Forest Range Officer
Forest Range Office
Namakkal

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in WLOR No.09 of 2020 on the file of the Forest Range Officer, Forest Range Office, Namakkal.

For Petitioner : Mr.D.Padmanabhan
For Respondent : Ms.S.Thankira
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 09.08.2020 for the offence punishable under Section Schedule-I, Part-I, 12-B, Elephas Maximus Sec.2(2), 11, 39 (1-b), (2), 48, 50, 51 of Indian wildlife Protection Act in WLOR No.09 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that upon secret information and the guidance of the District Forest Officer, a special team headed by the Namakkal Forest Range Officer with the Deputy Superintendent of Police, Tiruchengode and Village Administrative Officer, Tiruchengode, conducted a raid at the house of A1 at Tiruchengode Town. During the search, the respondent seized two elephant tusks wrapped in a red rexine cloth. On enquiry, A1 has confessed that he had procured the tusks from the other accused and had kept it for sale.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner is an Engineering Graduate and running a Dhaba and he was in possession of certain videos containing elephant tusks and the respondent police suspected that the petitioner is also one among the accused who are

dealing with the elephant tusks. He would further submit that the contraband was recovered from the house of A1 and only on the confession of A1, this petitioner was arrested and remanded to judicial custody. He would further submit that the petitioner has been suffering incarceration for more than 45 days from 09.08.2020 and he is prepared to abide by any stringent condition and that there is no previous case against the petitioner. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that two Ivory Tusks (Elephant Tusks) were recovered from the house of A1 and on enquiry, A1 has confessed that it was given by the other accused. She would further submit that there is no previous case against the petitioner and the investigation is pending.

5.Taking into consideration the facts and circumstances of the case and the submissions made by learned Counsels and the fact that there is no previous case against the petitioner and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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;

(b) Thereafter, 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 learned Judicial Magistrate, Tiruchengode, within a period of two weeks from the date of 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 on his release from prison, shall report before the respondent police everyday at 10.30 a.m. until further orders.

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

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

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

(h) 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];

(i) 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/-

23/09/2020

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.

TO

1 THE JUDICIAL MAGISTRATE,
THIRUCHENGODE

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP BY
FOREST RANGE OFFICER,
FOREST RANGE OFFICE,
NAMAKKAL.

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

सत्यमेव जयते

WEB COPY

CRL OP.14856/2020

Date :23/09/2020

RD 25/09/2020