



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

Date : 06/10/2020

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PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . Nos.10598 and 10602 of 2020

Edward

... Petitioner/Accused No.1
(in CRL OP(MD)No.10598/2020)

1. Jegathesh

2. Sathak Abdullah

... Petitioners/Accused No.2&3
(in CRL OP(MD)No.10602/2020)

Vs

The State rep. by
The Superintendent of Customs,
Customs Preventive Division,
Tuticorin.
(O.R.No.02/2020-21-Dpu-Tuticorin).

... Respondent/Complainant
in both the petitions

(In both the petitions)

For Petitioners: M/s.A.Balaji,
Advocate.

For Respondent : Mr.R.Erottuchamy
Government Advocate(Criminal side)

PETITIONS FOR BAIL Under Section 439 of Cr.P.C.

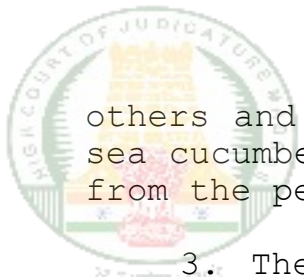
COMMON PRAYER :-

For Bail in O.R.No.02/2020-21-DPU on the file of the Respondent Police

COMMON ORDER : The Court made the following order :-

The petitioners/accused 1 to 3 herein were arrested on 31.08.2020 for the alleged offence under Section 104 of the Customs Act in connection with the offence under Section 135 of the Customs Act, 1962.

2. The case of the prosecution is that on 30.08.2020 when the petitioners and others while moving to Srilanka illegally in an authorized vehicle the respondent police caught the petitioner and



others and found the petitioners in illegal possession of processed sea cucumber weighing 1597.7kgs at mid sea and recovered the same from the petitioners and handed over to the coast guard.

3. The learned counsel for the petitioners would submit that the petitioners daily wages employees at sea and when they prepared to move to the Sea for fishing the Coast Guard police intercepted and enquired them about the authorization of the vallam. He would also submit that the petitioners are no way connected with the said occurrence, hence they may be granted bail.

4. The learned Special Public Prosecutor for customs had filed a counter and submitted that the petitioners have played a vital role in illicit transport, trafficking, possession and attempt to smuggling 1597.7kgs of processed Sea Cucumber which is punishable under Sections 135 of the Customs Act, 1962. He further submitted that on the confession the petitioners have admitted the offence and the Sea Cucumber were recovered from them. He would also submit that Sea Cucumbers have been declared as endangered species protected under Part IV, C Schedule-I of the Wild life Protection Act, 1972.

5. It is seen that there are three accused in this case and they were found in possession of 1597.7kgs of processed Sea Cucumber and now all the Sea Cucumber were confiscated by the respondent police.

6. Taking note of the above facts and circumstances of the case and also taking note of the fact that entire 1597.7kgs of processed Sea Cucumber were confiscated by the respondent and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioners subject to the following conditions:

7. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two blood related sureties each for a like sum to the satisfaction of the learned Additional Chief Judicial Magistrate, Madurai.

i) the sureties shall affix their 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

ii) the petitioners shall report before the respondent police daily at 10.30 a.m until further orders.

iii) the petitioners shall not tamper with evidence or witness.

<https://hcservices.courts.gov.in/hcsportal> petitioners shall not abscond during trial.



v) 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].

vi) If the petitioners/accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

06/10/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
MADURAI.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
3. THE OFFICER INCHARGE,
SUB JAIL,
PEROORANI, TUTICORIN.
4. THE SUPERINTENDENT OF CUSTOMS,
CUSTOMS PREVENTIVE DIVISION,
TUTICORIN.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN
CRL OP(MD) No.10598&10602/2020
Date :06/10/2020

AAV

SRS/ SMA/ SAR-II/ 07.10.2020/ 3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>