

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.1909 of 2021

1. Durai @ T.S. Aruchamy  
2. Thilagavathi

... Petitioners

vs.

State represented by  
The Forest Range Officer,  
Boluvanpatti Forest Office  
Boluvanpatti Forest Range.  
(W.L.O.R. No.01 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on in the event of their arrest concerned in W.L.O.R. No.01 of 2021, on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.S.Karthikeyan  
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 9 and 51 of Tamil Nadu Wild Animal Protection Act 1972, in W.L.O.R.No.01 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners herein are arrayed as A1 and A2 in this case and they are neighbors. A1 is the lessee of the land and in order to protect wild animals entering into his land he erected illegal power fence without proper permission from the forest department, which resulted in the death of the wild animals. So far as second petitioner is concerned she is only having electrical service connection from where the first

petitioner was taking electricity to the fence. Hence, she was also made an accused in this case.

3. The learned counsel appearing for the petitioners would submit that since the first petitioner is only a lessee for the said land, he did not erected any electrified fence. He would further submit that both the petitioners are senior citizens and the first petitioner is concerned he is an 60 year old man. The allegation with regard to second petitioner is that from her service connection the first petitioner was taking electricity connection and he prayed for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent strongly opposed the anticipatory bail application by stating that the petitioners without proper permission consumed electricity to their farm as well as put up erected electrified fencing, due to the high voltage passed in the electrified fencing four elephants died. He would further submit that despite the warning given by the Forest officers the villagers are indulging in this type of activities and this kind of occurrence take place frequently.

5. On perusal of the records it would be seen that 4 elephants were electrocuted in that area due to illegal electricity fencing. It is also seen that the villagers from the forest area are putting up electrified fence without obtaining proper permission from the authorities concerned and also consuming electricity to their farm from the main electrical line, which supplies high voltage power. Apart from this it is also stated that the wild animals are killed by many cruel methods such as poisoning, planting country bombs, shooting with illegal weapons, using illegal power fence etc. It is also seen that these type of incidence are taking place frequently, though it is stated that the first petitioner has no mens rea and he has put up the fence not with an intention to kill the wild animals but to protect his farm, their cannot be accepted for the simple reason that the petitioner is not supposed to put up a electrified fence without getting permission from the forest department or electricity board.

6. Taking into consideration, the facts and circumstances of the case, I am of the considered view that it is not a fit case for grant of anticipatory bail to the first petitioner and this petition is dismissed with regard to the first petitioner. So far as second petitioner is concerned the only allegation is that she is having electricity service connection, from that the first petitioner said to have taken power, in these circumstances, this Court is inclined to grant anticipatory bail to the second petitioner with the following conditions.

7. Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate no.4, Coimbatore, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the second petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the second petitioner shall report before the respondent police as and when required for interrogation.

[c] the second petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the second petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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 second 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].

[f] If the accused persons thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

15/02/2021

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,  
NO.IV, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE  
COIMBATORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

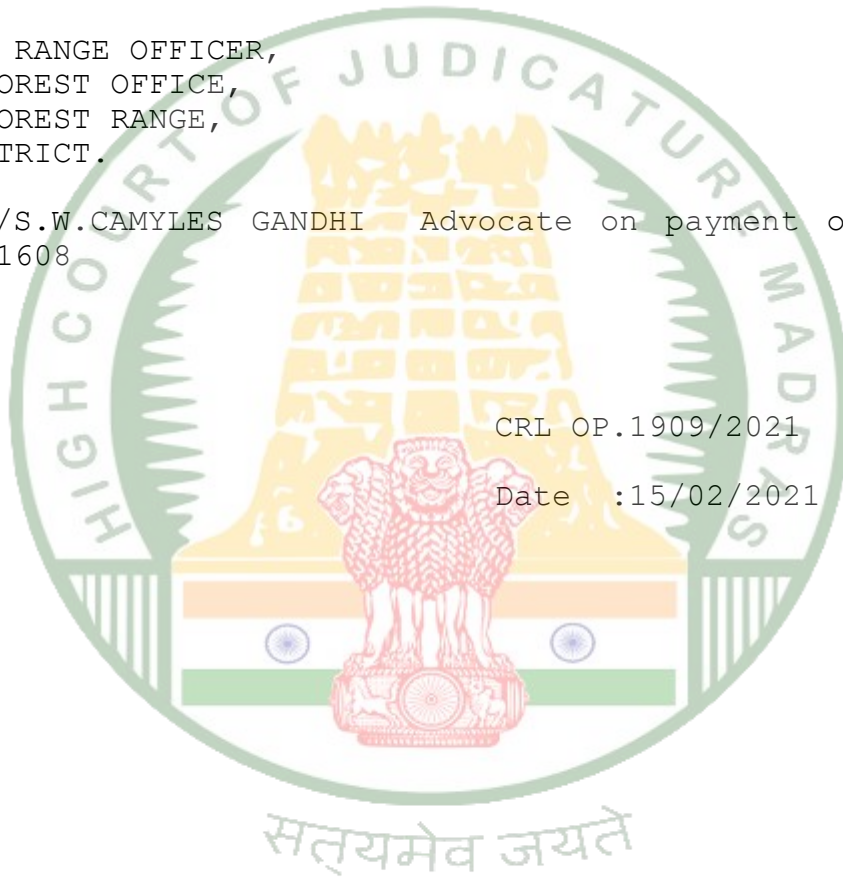
4 THE FOREST RANGE OFFICER,  
BOLUVANPATTI FOREST OFFICE,  
BOLUVANPATTI FOREST RANGE,  
COIMBATORE DISTRICT.

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary  
charges SR.No.1608

cs 25/02/2021

CRL OP.1909/2021

Date :15/02/2021



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