

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16..02..2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.19994 of 2020

1.Ramasamy

... Petitioners

2.Jeghatharachzhan

-Versus-

The State Tamil Nadu,
Rep. by The Forest Range Officer,
Valapaddi Range,
Shesachavadi,
Salem District.
[W.L.O.R.No.21 of 2020]

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in W.L.O.R.No.21 of 2020 pending investigation on the file of the respondent.

For Petitioners: Mr.C.K.M.Appaji

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

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest in connection with a criminal case in W.L.O.R. No.21 of 2020 on the file of the respondent police registered for the alleged offences punishable under Sections 9 and 51 of The Wildlife Protection Act, are before this court seeking anticipatory bail.

2. I have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor and also perused the records carefully.

3. The petitioners are father and son. According to the prosecution, the petitioners own a Topioca field comprised in S.No.12/A of Sengattur Village, Salem District. On the basis of a secret information that the petitioners killed an Indian Gaur (Bos Gaurus), when the respondent conducted inspection on 20.10.2020 and dugged the suspicion part of the land belonging to the petitioners,

they found a decomposed carcasses of a wild animal - Indian Gaur (Bos Gaurus). Therefore, a case was registered against the petitioners.

4. The learned counsel for the petitioners would submit that, as of now, the petitioners are not the owners of the land in question as they had sold out the same as early as in 2009 and thereafter, there were several transfers of ownership. The petitioners are not even in possession of the land in question. However, the petitioners have been falsely implicated. In support of his contentions, the learned counsel produced a copy of the Encumbrance Certificate.

5. The learned counsel for the petitioners would further submit that there is no material available on record as of now to show that the petitioners had killed the wild animal and buried the carcase of the animal in their land.

6. Per contra, the learned Additional Public Prosecutor would contend that the investigation conducted so far revealed that the petitioners have been in possession of the land in question, though they had transferred the land to a third party in the year 2009 itself. He would further submit that the investigation also revealed that it was only these petitioners who had killed the wild animal and buried the same in the land in question.

7. A perusal of the available records including the encumbrance certificate would prima facie show that the petitioners sold out the land in question in the year 2009 itself to a third party and subsequently, it was transferred in favour of different persons. According to the prosecution, even though the property had been sold by the petitioners to a third party, the petitioners continued to be in possession and they only did commit the crime.

8. Considering the fact that, as of now, the property in question does not stand in the name of the petitioners and the available also records prima facie show that they had sold out the property in question as early as in 2009 and on considering the other facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners on the following conditions:-

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned District Munsif cum Judicial Magistrate, Vazhapaddi, Salem District, 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 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:

[b] 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.

[c] the petitioners shall appear before the respondent police as and when required for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

16/02/2021

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

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

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
VAZHAPADDI, SALEM DISTRICT.

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

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE FOREST RANGE OFFICER,
VALAPADDI RANGE,
SHAESACHAVADI, SALEM DISTRICT.

+1 CC to M/S.C.K.M.APPAJI Advocate on payment of necessary
charges SR NO. 1844

CRL OP.19994/2020

Date :16/02/2021

MN-24/02/2021



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