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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.22751 of 2021

1.Eswaran
2.Katturaja

... Petitioners

Vs.

The State Reptd by
The Forest Officer,
Kil Kothagiri Range,
Nilgris District
(WLOR.No:03/2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to grant bail to the petitioners in WLOR.No:03/2021 on the file of the Respondent Forest Officer.

For Petitioners : Mr.I.Romeo Roy Alfred

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 25.09.2021 for the offence under Sections 2(1) (16) (a) (b) & (c), 9, 39(1)(a) & (d), 50 and 51 of the Wild Life Protection Act, 1972 and Section 21(h) of the Tamil Nadu Forest Act, 1882, in WLOR.No:03 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that four years ago, the 1st accused had installed an electric fencing around his land due to which, an Elephant got electrocuted and died. Thereafter, A1 and A2 along with A3 (Late) in order to hide the death of the Elephant, buried the Elephant by cutting its body. While so, on 25.09.2021 at about 4 p.m., the Forest Official went for patrolling. At that time, they found the offence committed by the accused. Hence, the complaint.



3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. Even as per the prosecution, the occurrence is said to have taken place four years ago and without any valid proof, they have arrested the petitioners and that they have been suffering incarceration for 70 days from 25.09.2021. Hence, he would seek for bail to the petitioners.

4. The learned Government Advocate (Crl. Side) raised objection stating that the petitioners have caused the death of an Elephant and without intimating the same, have buried the body of the Elephant and that the lab report is yet to be received.

5. It is seen that the occurrence is said to have happened 4 years ago and the petitioners are arrayed as A1 and A2 and the 3rd accused has already died. Further, the investigation is almost completed and the lab report only is awaited. Considering the above facts and also the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail on their executing separate bonds 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, Kothagiri, and on further conditions that:

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

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 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 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]; and;



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

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-sd/-

03/12/2021

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,
KOTHAGIRI, THE NILGIRIS DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THE NILGIRIS DISTRICT. [FOR INFORMATION]

3 THE OFFICER INCHARGE,
SUB JAIL, GUDALUR.

4 THE FOREST OFFICER,
KIL KOTHAGIRI RANGE,
NILGIRIS DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.I.ROMEO ROY ALFRED Advocate on payment of necessary charges SR.NO.13988

CRL OP.22751/2021

Date :03/12/2021

RW 03/12/2021