



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/11/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.16437 of 2021

Suresh Balaji

... Petitioner/Accused No.5

Vs

The Forest Range Officer,
Madurai Forest Range (Wild Life),
Madurai Forest Range Office,
Madurai
(In W.L.O.R.No.2 of 2021).

... Respondent/Complainant

For Petitioner : M/s.Arun B, Advocate.

For Respondent : M/s.P.Kottai Chamy,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in W.L.O.R.No.2 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A5, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 2(1), (2), (5), (11), (14), (16), (18), (23), (33), (36), (37), 9, 39, 40, 42, 43, 44, 47, 48, 48A, 49A, 49B, 49C, 50, 51, 52, 57 and Section 58 of the Wild Life (Protection) Act, 1972, in W.L.O.R.No.2 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that one Kanaga Anandh, A1, has been doing business of growing and selling birds and pets in the name and style of "Durai Farm" at Madurai. But, he does not possess any valid licence for his business. The respondent Police, on secret information, made surprise visit to the Farm of A1 on 12.10.2021 and they found that A1 was selling four Jungle Cats, one Indian Eagle Owl and one Indian Spotted Eagle to A2 and A3, who belong to State of Kerala. Thereafter, A1 to A3 were arrested and based on the



confession statement of A1, this case has been registered as against six persons. The allegation against the petitioner/A5 is that he is the seller of A1.

3. The learned counsel for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He further submits that the allegation levelled against the petitioner, that he is the seller of A1, is a bald allegation and there is no documentary evidence to prove the same. Hence, he prayed for grant of anticipatory bail.

4. The learned Government Advocate submits that based on the information from WCCB (Wildlife Crime Control Bureau), the respondent Police conducted a search and recovered four Jungle Cats, one Indian Eagle Owl and one Indian Spotted Eagle. According to him, it is a very big racket and wildlife animals have been taken away from the forest and being sold to various persons. Therefore, the custodial interrogation of the petitioner is very much required to find out the truth. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. Considering the objections raised by the learned Government Advocate (Criminal Side), when this Court is about to dismiss the application, the learned counsel for the petitioner submits that he will advise the petitioner not to indulge in such activities in future and that the petitioner will file an affidavit of undertaking before the respondent Police that he will not indulge in any such offence in future. Hence, considering the submissions made by the learned counsel for the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with stringent conditions:

6. Accordingly, this criminal original petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Vadipatti, Madurai District, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments and the sureties shall file an affidavit by ensuring that the petitioner will not indulge in any other offence in future and he will be available for the entire trial;

[b]the 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 Aadhaar card or bank pass book to ensure their identity.



[c]the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[d] The petitioner is directed to file an undertaking affidavit stating that he will not indulge in any such offence in future before the trial Court as well as before the respondent police.

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

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

[g]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 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]**.

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

Sd/-
02/11/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ssb

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 JUDICIAL MAGISTRATE,
VADIPATTI, MADURAI.

2. -DO- THROUGH

THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.



3. THE FOREST RANGE OFFICER,
MADURAI FOREST RANGE (WILD LIFE),
MADURAI FOREST RANGE OFFICE,
MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.ARUN B Advocate SR.No.7881

ORDER
IN
CRL OP(MD) No.16437 of 2021
Date :02/11/2021

SP/JM/SAR I/11/11/2021/4P/6C