

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P. No.3967 of 2022

S.Rahim

... Petitioner /
A-1

versus

State rep. by
Forest Range Officer,
Head Quarters,
Velachery, Chennai.
(WLOr No.2 of 2022)

...Respondent /
Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in WLOr No.2 of 2022 on the file of the respondent police.

For Petitioner : Mr.N.Ramesh

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 20.01.2022 for the offences punishable under Sections 39 (1) (a), (b), (c), (d), 39(3) (a), (b), 44, 48A, 48(b) (ii), 49A, 49B, 50 r/w Section 51 of the Wildlife Protection Act, 1972 in W.L.O.R. No.2 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of two numbers of Elephant Tusks worth about Rs.15,00,000/- without any valid licence. Hence, the complaint

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner has been falsely implicated in this case and he is in judicial custody from 20.01.2022 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, the petitioner is the first offender and as of now, the property, which is necessary for completing the investigation, was recovered in this case by the Investigation Officer.

5. The submissions made by the learned counsel appearing on either side are considered.

6. It seems that the respondent police registered a case as against the petitioner for the offences punishable under Sections 39(1)(a), (b), (c), (d), 39(3)(a), (b), 44, 48A, 48(b)(ii), 49A, 49B, 50 r/w Section 51 of the Wildlife Protection Act, 1972 and as of now, the material object, which is necessary for completing the investigation was recovered by the respondent. Hence, the custodial interrogation of the petitioner may not be necessary for completing the investigation in this case. Further, the petitioner is in judicial custody from 20.01.2022 onwards. Therefore, taking note of the above said aspects into consideration and having regard to the nature of offence committed by the petitioner and also by considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned II Metropolitan Magistrate, Egmore, Chennai;

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

-sd/-

17/02/2022

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 II METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE FOREST RANGE OFFICER,
HEAD QUARTERS,
VELACHERY, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S N.RAMESH Advocate on payment of necessary charges
SR.NO.2457

CRL OP.3967/2022

Date :17/02/2022

RW 17/02/2022