



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.04.2022

Pronounced on : 13.04.2022

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.7398 of 2022

1.Vellaisamy
2.Thiruman

... Petitioners

/versus/

State represented by
The Forest Range Officer,
Forest Range Office,
Udumalpet Range,
Anamalai Tiger Reserve,
Tirupur District.
(W.L.O.R.Crime No.6 of 2021)

... Respondent

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to grant anticipatory bail to the petitioner in the event of their arrest or on their appearance before any Court in connection with the case in W.L.O.R.Crime No.6 of 2021 pending investigation on the file of the respondent.

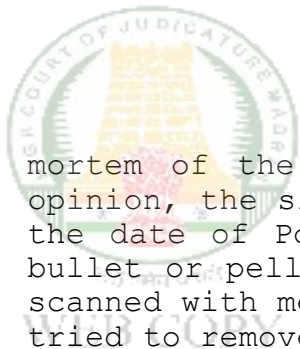
For Petitioners : Mr.D.R.Arun Kumar

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 29 and 39(3) (a) of Wild Life Protection Act, 1972 in W.L.O.R.No.6 of 2021 on the file of the respondent police, seek anticipatory bail.

2.According to the prosecution, on 29/08/2021 in the course of patrolling the Forest area by the field workers of the Forest Department, they found carcass of a male elephant lying on its right side (tusk severed) and reported it to the Forest Range Officer. First Information Report was registered based on the Flash Report and Post-



mortem of the elephant was done on 30/08/2021. As per the Doctors opinion, the single tusk elephant probably died 4 or 5 days earlier to the date of Post-mortem and its left side tusk severed recently. No bullet or pellet was detected, when the left side of the carcass was scanned with metal detector. However, when they turned the carcass and tried to remove the inner portion of the broken part of the right side tusk, they found 15-18 mm bullet beneath a closed wound. They also recovered three pellets each 8-10 mm size from the right side front limb near the thigh portion. The bullet wound and pellet wound were old and no new injury noted.

3.A team was constituted by the Deputy Director, Anaimalai Range vide order dated 29/08/2021 to search the single tusk removed from the dead elephant. On 02/09/2021 at about 3.00 pm the team recovered a plastic bag buried near the broken bridge in which the single tusk concealed. On 22/09/2021 during the patrol, 4 persons sitting on a rock started running on seeing the patrol team. Two fled and two of them were caught. On suspicion, they were interrogated. They confessed the guilt of concealing the single tusk after severing it from the dead body of the elephant. They also disclosed the names of the other two persons as Vellaisamy (the petitioner herein) and one Thiruman, who fled are their accomplice in the crime. Later, the arrested accused retracted the confession and exculpated Thiruman as they included his name out of animosity towards him. He is innocent and only Vellaisamy is the real culprit. Considering the retraction, the name of Thiruman deleted. Accordingly, the alteration report dated 15/12/2021 submitted excluding Thiruman name and including the name of Vellaisamy (the petitioner herein) as the prime accused.

4.The learned counsel for the petitioners submitted that the petitioners are the tribals and innocent persons. Based on the retracted confession of the arrested accused persons, their name have been included in the FIR to shield the real culprits in the crime, who are powerful Politicians and Officials. Since the matter got leaked through social media, a concocted story has been webbed, according to the imagination of the respondent. The persons, who alleged to have given confession implicating these petitioners are unlettered tribals. The alleged confession statements and the retracted confessions were prepared by the respondent, according to their imagination on the paper where the thumb impressions of the arrested accused obtained.

5.On the cumulative assessment of the facts placed, this Court is of the view that the petitioners apprehension of arrest, based on the retracted confession of the other accused persons, appears to be true. Since custodial interrogation of the petitioners is not required, this Court is inclined to grant anticipatory bail to the petitioners.



6. Accordingly, the petitioners are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Udumalpet and on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five 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 and on further condition that:

(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) The petitioners shall report before the Investigating Officer 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.

-sd/-

13/04/2022

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 JUDICIAL MAGISTRATE,
NO.I, UDUMALPET.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE FOREST RANGE OFFICER,
UDUMALPET RANGE, ANAMALAI TIGER RESERVE
TIRUPUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. D.R.ARUN KUMAR Advocate on payment of necessary
charges SR.NO.5663

CRL OP.7398/2022

Date :13/04/2022

JPA 18/04/2022