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Crl.OP.No.19664 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.19664 of 2022

Gunasekaran

...Petitioner

Vs.

State Rep by
The Forest Range Officer,
FRO, Pennagaram,
Dharmapuri District.
(WLOR No.07/2022).

...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail relating to Crime No. in WLOR.
No.07 of 2022 on the file of the respondent.

For Petitioner :Mr.N.U.Pressanna

For Respondent :Mr.A.Gopinath,
Government Advocate (Crl.Side)

ORDER

The petitioner was arrested and remanded to judicial custody
on 10.07.2022 for the offences punishable under Sections 21(d), (h) of
Tamil Nadu Forest Act 1882 - 5th Section, under Sections 9, 2(1), 12(B),



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35, 36, 39(a), 50, 51(1A) of Wild Life Protection Act 1972 and Sections 25(1) & 25(A) of Indian Arms Act in WLOR No.07 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that, on 01.07.2022 at about 9 hrs, an information was received through the forest sippandies of Pennagaram forest range that in the interior of the Poovanur Kappukadu Anjinayer Kovil forest one rare species of magna variant of elephant was found dead in a suspicious manner. On such information, the respondent visited the spot and seized the body of the elephant and conducted autopsy with the assistance of veterinary doctors and came to know that the elephant was shot dead through country made gun and further recovered 2 Ivory tusks and 1 eyakoondur and prepared a mahazar at around 4 P.M. and registered a case in the Crime No. WLOR No.07/2022. Thereafter, filed a report before the Pennagaram Judicial Magistrate. On a secret investigation, the respondent/officials came to know that the A1 from Aakalathanpatti Village was involved in the aforesaid act of killing the elephant. On 03.07.2022, at around 11 hrs, A1 was brought to Pennagaram forest office for inquiry where he is said



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to have stated that he along with others had to resort to shooting of the elephant in self defence when the elephant came charging on them and the country made gun and the bullets were recovered from his agricultural land. Further, A1 is alleged to have stated that this petitioner/A2 fired the gun on the elephant.

3. The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that, so far 4 guns were recovered from the accused persons. Hence, he vehemently opposed for granting bail to the petitioner.

5. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner from the date of his arrest i.e., 10.07.2022, this Court is inclined to grant bail to the petitioner.



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Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees ten thousand only)** with **two blood related sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Pennagaram**, 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 petitioner shall stay at Chennai and report before the Inspector of Police, Egmore Police Station twice daily at 10.30 a.m. and 5.30 p.m., until further orders.

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

[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 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]**.



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

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G.K.ILANTHIRAIYAN, J.

mpl

To

- 1.The Judicial Magistrate,
Pennagaram.
- 2.The Forest Range Officer,
FRO, Pennagaram,
Dharmapuri District.
- 3.Sub-Jail, Dharmapuri.
- 4.The Public Prosecutor,
High Court of Madras

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