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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2022

CORAM:

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

Crl.O.P.No.25603 of 2021

1.M.Sakthivel
2.M.Settu

... Petitioners/A4 & A5

Vs.

The State represented by
The Forest Range Officer,
FRO Dharmapuri,
Dharmapuri District.
(WLOR.No.8/2021)

... Respondent/Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners/accused on bail in connection with the WLOR.No.8 of 2021, pending investigation, on the file of the respondent police.

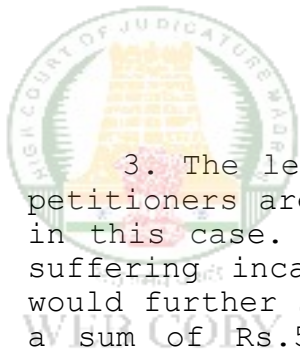
For Petitioners : M/s.K.Gandhi Kumar

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

ORDER

The petitioners who were arrested and remanded to judicial custody on 30.11.2021 for the offences under Sections 9, 39(1)(A), 40 (2), 44, 49, 49(A), 49(B), 50, 51(1) of Wild Life Protection Act 1972 in WLOR.No.8/2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 25.11.2021, based on a secret information, when a special team headed by the Ranger was on patrol duty near Sogathur 4 road Junction, two cars were found parked in suspicious manner and when the car was checked, two elephant Ivory were found, one is 121 cm length and 12.820 Kgs weight and the another one was 98 cm length weighing 12.150 kgs following which, the respondent officials arrested A-1 to A-3 viz., Karthi, Vinoth and Chinnasamy in the spot and remanded to judicial custody and the other accused ran away from the place in their car Hence, the complaint.



3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners have been suffering incarceration for more than 30 days from 30.11.2021. He would further submit that the petitioners are ready and willing to pay a sum of Rs.5,000/- each to any Charitable Institute as may be directed by this Court without prejudice to the rights and contentions before the trial Court and he would pray for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) vehemently opposed stating that there are 5 accused in this case and the petitioners are arrayed as A4 and A5 but admits that there is no previous case against the petitioners and the properties have been recovered and that the investigation is almost completed.

5 Considering the fact that there is no previous case against the petitioners and the properties have been recovered and that the investigation is almost completed and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

(a) Accordingly, the Petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioners have been confined and thereafter on their release;

(b) each petitioner shall make non-refundable deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) each through demand draft to the Registered Advocate Clerks Association, Dharmapuri District, without prejudice to their defence before the trial Court and on such deposit, each petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate No.I, Dharmapuri, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;



(d) the petitioners shall report before the respondent police on every Wednesday and Saturday at 10.30 a.m. until further orders.

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(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

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

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

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
03/01/2022

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, DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION].

3 THE FOREST RANGE OFFICER,
FRO DHARMAPURI, DHARMAPURI DISTRICT

4 THE OFFICER INCHARGE,
SUB JAIL, HARUR, DHARMAPURI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE REGISTERED ADVOCATE
CLERKS ASSOCIATION,
DHARMAPURI DISTRICT.

+1 CC to M/S.K.GANDHI KUMAR Advocate on payment of necessary
charges SR.NO. 59

CRL OP.25603/2021

Date :03/01/2022

JPA 04/01/2022