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Crl.O.P.(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). Nos.1218 and 1356 of 2023

1. Kasina @ Kasimohammed @ Kasimkhan,

2. Hajathullah @ Hamthullah, ... Petitioners/Accused Nos. 2 & 3
in Crl.O.P.(MD)No.1218 of 2023

Seeman @ Bahadurkhan ... Petitioner/Accused No.4
in Crl.O.P.(MD)No.1356 of 2023

Vs

State Rep.by
The Forest Ranger,
Mandapam Forest Range,
Ramanathapuram District
(Wlor No.2 of 2023).

... Respondent/Complainant
in both petitions

In both petitions:-

For Petitioner : M/s.Veerakumar.T, Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

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

COMMON PRAYER :-

To enlarge the petitioners on bail in the event of their arrest
in WLOR No.2 of 2023 on the file of the respondent

COMMON ORDER : The Court made the following order :-

The petitioners/A2 to A4, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections 9,
39(1) (a) (b) (d), 39(3) (a) (b) (c), 40(2), 50, 51(1) and 57 of Wild Life
Protection Act, 1972 in WLOR No.2 of 2023 on the file of the
respondent police, seek anticipatory bail.

<https://www.mca21.com/>



2.The case of the prosecution is that the petitioners along with the other accused were found in possession of 750kgs of Sea Cucumber worth about Rs.1,12,50,000/-. Hence, the case.

3.The learned counsel for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that the petitioners are fishermen by profession and even as per the statement recorded from the other accused, they have been engaged by the main accused for carrying the contraband and the petitioners have carried the contraband without their knowledge. Hence, he seeks for anticipatory bail.

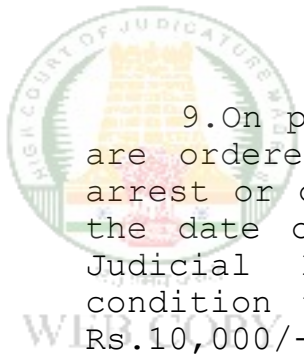
4.The learned Government Advocate (Crl. side) appearing for the respondent would submit that the petitioners though claimed to be fishermen being well aware that the contraband is a banned substance and have taken 750kgs of Sea Cucumber, which falls under Schedule 1 of the Wild Life Act, they have not only committed an offence and they have also caused damage to the biosphere of the Gulf of Mannar and have degraded the environment and he vehemently opposed for grant of anticipatory bail.

5.At this juncture, the learned counsel for the petitioners would submit that the petitioners have no previous case pending against them and that they have also filed a memo before this Court agreeing to pay a sum of Rs.50,000/- each towards any Welfare Scheme, Trust or Organisation as prescribed by this Court, without prejudice to their contentions before the trial Court.

6.Heard. Perused the materials available on record including the First Information Report.

7.Taking into consideration of the facts and circumstances of the case and also the fact that the petitioners have no previous case and that they have also made a voluntary statement and filed a memo agreeing to pay a sum of Rs.50,000/- each towards any Welfare Scheme, Trust or Organisation, this court is inclined to grant anticipatory bail to the petitioners, with certain conditions.

8.Accordingly, each of the petitioners shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) as non refundable deposit by way of Demand Draft/RTGS/NEFT to the **Gulf of Mannar, Biosphere Reserve Trust [State Bank of India, Ramnad Branch, A/c No.33658054216, IFSC Code: SBIN0000908]**, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgement before the trial Court. However, it is made clear that the deposit being made by the petitioners, would not amount of admission of guilt by them. Therefore, it is open to the trial Court to deal with the case independently.



9. On production of such receipt/acknowledgment, the petitioners are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Rameshwaram, Ramanathapuram District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioners and 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 petitioners shall stay at Madurai and report before the Inspector of Police, Y.Othakadai Police Station, Madurai 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].

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

sd/-
25/01/2023

/ TRUE COPY /

/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI
TO

1 THE JUDICIAL MAGISTRATE,
RAMESHWARAM, RAMANATHAPURAM DISTRICT.



- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
- 3 THE FOREST RANGER
MANDAPAM FOREST RANGE,
RAMANATHAPURAM DISTRICT
- 4 THE INSEPCTOR OF POLICE
Y.OTHAKADAI POLICE STATION, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE OFFICER INCHARGE
GULF OF MANNAR,
BIOSPHERE RESERVE TRUST,
RAMANATHAPURAM DISTRICT.

+2 CC to M/s.T.VEERAKUMAR, Advocate (SR-1222[I] & 1222(I)dated
27/01/2023)

ORDER
IN
CRL OP (MD). Nos.1218 and 1356 of 2023
Date :25/01/2023

PKP/ /SAR-3/03.02.2023/4P/9C