

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/03/2023

PRESENT

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

CRL OP(MD). No.2969 of 2023

Esaikumar,
Gandhi West Street,
Sivagamipuram,
Panagudi Post,
Tirunelveli District.

... Petitioner/Accused 1

Vs

The Forest Range Officer,
Boothapandy Forest Range,
W.L.O.R No. 20/2022 of Boothapandy Forest Range,
Kanyakumari District.

... Respondent/Complainant

For Petitioner : Mr.S.Sivakumar,
Advocate.

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

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

PRAYER :-

To pass order directing the petitioner to be enlarged on bail in the event of arrest by the respondent in W.L.O.R No.20/2022 of Boothapandy Forest Range.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 9, 39, 49B, 50, 51 and 57 of Wild Life Protection Act, 1972, in W.L.O.R No. 20/2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the de-facto complainant Assistant Conservator of Forest, Nagercoil, is that on secret information, he had gone to the forest near Sivagamipuram on 29.12.2022 and found that three persons were standing there and on

seeing the officials, one person had escaped from the scene of occurrence and two persons were caught and they have confessed that they have hunted monitor lizard. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated on the basis of the confession recorded from the arrested accused that they have hunted the monitor lizard. He would further submit that the arrested accused persons have been enlarged on bail by the lower Court and the petitioner has got no previous case against him. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the petitioner along with the other accused had hunted monitor lizard from the reserved forest area. Hence, he would object for grant of anticipatory bail.

5.At this juncture, the learned counsel for the petitioner would submit that the petitioner, without prejudice to his rights and contentions, is ready and willing to deposit Rs.10,000/- to any Welfare Scheme of the Government.

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 petitioner, without prejudice to his rights and contentions, is ready and willing to pay a sum of Rs.10,000/- to any Welfare Scheme of the Government, this court is inclined to grant anticipatory bail to the petitioner, with certain conditions.

8.Accordingly, the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten 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 his 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 petitioner, would not amount of admission of guilt by him. Therefore, it is open to the trial Court to deal with the case independently.

9.On production of such receipt/acknowledgment, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Nagercoil, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the

satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner 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 petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 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/-
01/03/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. THE JUDICIAL MAGISTRATE NO.1,
NAGERCOIL.
2. DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE FOREST RANGE OFFICER,
BOOTHAPANDY FOREST RANGE,
KANYAKUMARI DISTRICT.

4. THE OFFICER INCHARGE,
GULF OF MANNAR,
BIOSPHERE RESERVE TRUST,
RAMNAD.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-3148[I] dated 01/03/2023)

ORDER

IN

CRL OP(MD) No.2969 of 2023

Date:01/03/2023

SI/SKN/SAR-1/(08.03.2023) 4P/ 7C