



CRL OP(MD)No.21716 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 20.12.2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD)No.21716 of 2023

1.Karthikeyan

2.Sathish Kumar

... Petitioners / Accused No.2 & 4

Vs

Rajapalayam Forest Range,
Rajapalayam,
Virudhungan District.
(WLOR No.7 of 2023)

... Respondent

For Petitioners : Mr.G.Thalaimuthurasu, Advocate

For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor.

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in WLOR No.7 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who were arrested and remanded to judicial custody on



CRL OP(MD)No.21716 of 2023

05.11.2023 for the alleged offence punishable under Sections 2(2), 9, 39, 40, 42, 43, 48, 49(A), 49(B), 49(C), 51(1-C) & 51(1-D) of the Wild Life (Protection) Act 1972 in WLOR No.7 of 2023, on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 05.11.2023, the petitioners and other accused were found in illegal possession of elephant ivory at Mahamalai Tiger sanctuary. Hence the case.

3.The learned counsel appearing for the petitioners would contend that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He would further submit that the petitioners are only transporting the ivory obtained from one Muthu and A8 to A10 were arrested and released on bail by the Court below and the petitioners herein are in custody from 05.11.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that petitioners and other accused were found in illegal possession of elephant ivory and hence, he strongly objected to grant bail to the petitioners.

5.Heard both sides and perused the materials available on record.

6.On perusal of records, it is noticed that one Vinith is having knowledge about the ivory through one Ganesh and thereafter, they went to Muthu's thoppu



CRL OP(MD)No.21716 of 2023

and obtained ivory and transported through Murugan and Karthikeyan. At that time, they were intercepted by the Customs Department and thereafter, the Forest Department took the custody of the accused and seized the properties.

7.Considering the above facts and circumstances and considering the period of incarceration and also taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

[i] Accordingly, the petitioners are ordered to be released on bail on condition to 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 Judicial Magistrate, Rajapalayam and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioners shall appear before the trial Court on every Monday at 10.30 am., until further orders.

(iv)the petitioners shall not tamper with evidence or witness;

(v)the petitioners shall not abscond during trial.



CRL OP(MD)No.21716 of 2023

WEB COPY

vi) 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
20/12/2023

/ TRUE COPY /

20/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

To

1.The Judicial Magistrate,
Rajapalayam.

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

3.Rajapalayam Forest Range,
Rajapalayam, Virudhunagar District.

4.The Officer Incharge,
Aruppukottai Sub Jail.



CRL OP(MD)No.21716 of 2023

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-18038[I] dated
20/12/2023)

ORDER
IN
CRL OP(MD) No.21716 of 2023
Date :20/12/2023

ED/ /SAR- (15/12/2023) 5P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023