
(2021) 02 KL CK 0122
In the High Court Of Kerala
Case No : Bail Application No. 1327 Of 2021

Jagadeesh P.V

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 18-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Forest Act, 1927 — Section 27(1), 47(C)(1), 47(G)(1)

Citation : (2021) 02 KL CK 0122

Hon'ble Judges : Ashok Menon, J

Bench : Single Bench

Advocate : Babu S. Nair, Santhosh Peter

Final Decision : Allowed

Judgement

1. This is an application for anticipatory bail under Section 438 of Cr.P.C.
2. The applicant is the 4th accused in O.R.No.26/2020 of Ommala Forest Station for having allegedly committed the offences punishable under Sections 27(1), (e), (iv), (iii), 47C(1) and 47G(1) of the Forest Act.
3. The prosecution case, in brief, is that on 28.12.2020, three persons attempted to transport sandal wood trees which were cut and removed from the reserve forest in a jeep and the forest officials, on getting information, intercepted the vehicle and one of them fled away from there. Accused 1 and 2 were arrested and they allegedly gave a confession statement revealing the identity of the person who ran away as the applicant, and therefore, the applicant was implicated as the 4th accused.
4. The applicant states that he is innocent and the allegations are not true. Apart from the alleged statement given by the co-accused to the Deputy

Range Officer, there is no other materials to connect the applicant with the alleged crime, and therefore, he seeks pre-arrest bail.

5. Heard the learned Counsel for the applicant and the learned Public Prosecutor.

6. The learned Counsel appearing for the applicant submits that the confession statement made to a Deputy Range Officer is not admissible. It is

further stated that there are no other incriminating materials collected by the prosecution apart from the alleged confession statement. The latest

decision of the Apex Court in Tofan Singh v. State Of Tamil Nadu 2020 SCC OnLine 882 has also held that confession to an officer detecting an

NDPS case is not admissible and that it would fall within the restriction under S.25 of the Evidence Act.

7. The learned Public Prosecutor submits that the applicant is involved in two other forest cases, which are registered as O.R.Nos.9/2012 and 10/2012

of Sholayar Forest Station, and therefore, in view of the criminal antecedents there is every possibility that the confession statement given by the co-

accused be true and hence he has been implicated in this case.

8. After having heard the submissions on both sides, I find that the confession statement is not acceptable for two reasons. Firstly, it is a confession

statement not supported by any other corroborative materials incriminating the applicant and nothing was recovered from him and secondly it is a

confession statement given to the Deputy Range Officer A confession statement shall be recorded by an officer not below the rank of a Deputy

Conservator of Forests. Hence, the materials collected by the prosecution does not indicate the complicity of the applicant and merely because he is

involved in two other criminal cases of similar nature, does not indicate that he is involved in this crime also. Hence the applicant is entitled to pre-

arrest bail.

In the result, the bail application is allowed and the applicant is directed to surrender before the investigating officer within two weeks. In the event of

his being arrested, after interrogation and recovery, if any, the applicant shall be released on bail on the execution of a bond for Rs.50,000/- (Rupees

fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the investigating officer, and on the following conditions:

(i) He shall not influence or intimidate witnesses or tamper with evidence;

(ii) He shall appear before the investigating officer as and when called for and

shall cooperate with the investigation; and

(iii) During the bail period, he shall not get involved in any similar offences.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.