

(2023) 05 KL CK 0267

In the High Court Of Kerala

Case No : Bail Application No. 4097 Of 2023

Madhusoodanan Njarakkattil

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 31-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438

Wild Life (Protection) Act, 1972 — Section 2, 2(1), 14, 16, 20, 35, 36, 9, 39, 50, 51

Citation : (2023) 05 KL CK 0267

Hon'ble Judges : A. Badharudeen, J

Bench : Single Bench

Advocate : P.Samsudin, Jithin Lukose, Milan Rachel Mathew, T V Neema

Final Decision : Allowed

Judgement

A. Badharudeen, J

1. This is a petition filed under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail and petitioner is the 2nd accused in O.R.No.5/2023 of Karuvarakundu Forest Station, Malappuram.

2. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor. Perused the relevant documents form part of the case diary, produced by the learned Public Prosecutor.

3. The prosecution case is that, the 1st accused collected meat of wild boar which was included in Schedule III of the Wild Life (Protection) Act, 1972 and given the same to the petitioner also. Thereafter, the Forest Officers came to know about this and they have collected the meat. The collected items were sent to Rajiv Gandhi Center for Bio Technology, Thiruvananthapuram and the rest of the cooked meat were buried with the permission of Judicial First Class Magistrate Court-II, Manjeri. On this premise, the prosecution alleges commission of offences punishable under Sections 2, 2(1), 14, 16, 20, 35, 36, 9, 39, 50 and 51 of the Wildlife (Protection) Act, 1972.

4. The learned counsel for the petitioner would submit that, as per Annexure.A1 order dated 31.05.2022, the wild boar creating hazard to the life and property of the citizens was ordered to be killed by the Principal Chief Forest Conservator (Wild Life Warden). Therefore, if at all the petitioner happened to be in possession of meat of the wild boar, killing of the same cannot be shouldered on the petitioner. The learned counsel for the petitioner submitted that, the petitioner is ready to co-operate with the investigation, since the prosecution has no allegation that the petitioner hunted the wild boar in any manner. Therefore, the petitioner may be released on anticipatory bail.

5. Whereas the learned Public Prosecutor opposed grant of anticipatory bail to the petitioner and produced a detailed report of the Investigating Officer which would suggest red handed recovery of meat from the possession of accused Nos. 1 and 2. Therefore, the learned Public Prosecutor highlighted the necessity of custodial interrogation to accomplish meaningful investigation.

6. On perusal of the available materials, even though the prosecution has no specific case that, the accused herein hunted the wild boar, meat of wild boar was seized from their respective houses. Therefore, the petitioner's complicity in this matter is well made out prima facie. However, how the meat happened to be possessed by the petitioner is a matter of investigation and for which the petitioner's presence before the Investigating Officer must be secured. Therefore, I am inclined to enlarge the petitioner on bail, by imposing conditions, with direction to the petitioner to subject himself for interrogation before the Investigating Officer for two days between 10.00 am to 04.00 pm, for the purpose of investigation.

Therefore, this petition stands allowed. The petitioner is enlarged on bail on conditions:

i. The petitioner shall surrender before the Investigating Officer within ten days from today and on such surrender, the Investigating Officer can question the petitioner for two days in between 10.00 am to 04.00 pm. In the event of his arrest, the Investigating Officer shall produce the petitioner before the Jurisdictional Court on the date of arrest itself.

ii. On such production, Jurisdictional Court shall release the petitioner on bail, on executing bond for Rs.30,000/- (Rupees Thirty thousand) each, by himself and by two sureties, each for the like sum to the satisfaction of the Jurisdictional Court.

iii. The petitioner shall co-operate with investigation and shall be made available for interrogation and for the purpose of investigation, as and when the Investigating Officer directs so.

iv. The petitioner, shall not, intimidate the witnesses or interfere with the investigation in any manner.

v. The petitioner shall not commit any offence during currency of this bail and

any such involvement is a reason to cancel the bail hereby granted.