

IN THE HIGH COURT OF KARNATAKA AT
BENGALURU

DATED THIS THE 4TH DAY OF DECEMBER, 2021

BEFORE

THE HON'BLE MR. JUSTICE K. NATARAJAN

CRIMINAL PETITION NO.7887 OF 2021

BETWEEN:

SRI. RIYAZ
S/O ABBUBKAR
AGED ABOUT 30 YEARS
R/AT NEAR SALIM CHICKEN CENTRE
BEHIND KOYANADU TEMPLE
KOYANADU VILLAGE
MADIKERI TALUK
KODAGU DISTRICT-571201

...PETITIONER

(BY SRI. PRATEEK.H.C, ADVOCATE-PH)

AND:

STATE OF KARNATAKA
BY THE FOREST MOBILE SQUAD, MYSURU
REP. BY THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560001

... RESPONDENT

(BY SRI.KRISHNA KUMAR K.K, HCGP-PH)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438
CR.P.C, PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE
EVENT OF HIS ARREST IN FOC. CRIME NO.26/2021-22 OF
FLYING FOREST SQUAD, MYSURU FOR THE OFFENCE P/U/S
2(32), 2(36), 39(B)(D), 40, 44, 48(A), 49(B), 50, 51 OF
SCHEDULE-II, PART-II, SERIAL NO.5A OF THE WILD LIFE
PROTECTION ACT.

THIS CRIMINAL PETITION COMING ON FOR ADMISSION
THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner-accused No.1 under Section 438 of Cr.P.C. for granting anticipatory bail in FOC Cr.No.26/2021-22 registered by Forest Mobile Squad, Mysuru - respondent for the offences punishable under Sections 2(32), 2(36), 39(B)(D), 40, 44, 48(A), 49(A), 49(B), 50, 51, Schedule-II, Part-II, Serial No.5A of Wild Life Protection Act, 1972.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent-State.

3 The case of the prosecution is that on the credible information received on 05.08.2021, the Forest Officers intercepted the Wagonr Car at 5.25 p.m. and they found four persons who were travelling with 8.25

kgs of ambergris. After apprehending the accused persons, they have been remanded to the judicial custody. During the voluntary statement, it was revealed that they have purchased the same on behalf of the petitioner. Based upon the statement, the name of this petitioner has been implicated as accused No.1. Hence, apprehending his arrest, he has approached the Sessions Court for anticipatory bail, which came to be rejected. Hence, he is before this Court.

4. The forest police have already arrested the accused Nos.2 to 5 on 05.08.2021 and thereafter, they have been granted bail on 05.10.2021. As per Section 167 (2) Cr.P.C., the Investigation Officer has not filed the charge sheet within the prescribed time. The name of this petitioner arrived as an accused on the voluntary statement of other accused persons. Nothing recovered from this petitioner. The alleged offences are neither punishable with death or imprisonment of

life. Therefore, considering the facts and circumstances of the case that the Sessions Court has already granted bail to the accused Nos.2 to 5 and ambergris have been recovered by the forest department on 05.08.2021 and therefore, without expressing any opinion on the merits of the case, if the petitioner is granted bail by imposing certain conditions, no prejudice would be caused to the case of the prosecution. Hence, I pass the following order:

ORDER

- 1) The Criminal Petition is allowed.
- 2) The respondent – Investigation Officer is directed to release the petitioner-accused No.1 on bail in the event of his arrest FOC Cr.No.46/2021-22 registered by Forest Mobile Squad, Mysuru - respondent for the offences punishable under Sections 2(32), 2(36), 39(B)(D), 40, 44, 48(A), 49(A), 49(B), 50, 51, Schedule-II, Part-II, Serial No.5A of Wild Life

Protection Act, 1972, subject to the following conditions;

- (i) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the likesum to the satisfaction of the Investigating Officer;
- (ii) Petitioner shall surrender himself before the Investigating Officer within 15 days from the date of receipt of certified copy of this order;
- (iii) Petitioner shall not indulge in similar offences strictly;
- (iv) Petitioner shall not directly or indirectly tamper with any of the prosecution witnesses;
- (v) Petitioner shall take the trial without causing any delay.

(vi) The petitioner shall appear before the IO as and when called for .

(vii) Petitioner shall be deemed to be in custody for the purpose of recovery under Section 27 of the Indian Evidence Act.

If any of the conditions are violated, the prosecution is at liberty to file an application for cancellation of bail.

I.A.No.1/2021 does not survive for consideration and accordingly, it is dismissed.

**Sd/-
JUDGE**

Prs*