

GAHC010020892023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Bail Appln./435/2023**

RANJEET CHETRY  
S/O- PREM BAHADUR CHETRY, R/O- VILL.- RAJAPARA, P.O. RAJAPARA, P.S.  
BOKO, DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE SPECIAL PP, WILDLIFE DEPARTMENT.

**Advocate for the Petitioner : MR A W AMAN**

**Advocate for the Respondent : SPL PP WILDLIFE FOREST ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 15-02-2023**

Heard Mr. S. Das, learned counsel for the petitioner and Mr. D. Gogoi, learned Special PP for the Forest Department.

2. The petitioner, namely, Ranjeet Chetry, in connection with BPR/WL-01

of 2023 under sections 39(1)(b)/ 9/2(2)/ 2(16)(c) of the Wildlife Protection Act, 1972, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. Mr. D. Gogoi, learned Special PP for the Forest Department has produced a photocopy of the forwarding letter dated 10.02.2023 of the office report submitted before the Court of learned Addl. Session Judge, Kamrup Amingaon.

4. The learned counsel for the petitioner has submitted that although the offence under the Assam Wildlife (Protection) Act, 1972 has been amended by the Wildlife Protection (Assam Amendment) Act, 2009 by insertion of section 51 and section 51(B), every offence punishable under the said Act is made cognizable and non-bailable within the meaning of Cr.P.C., but in view of specific bar created under section 193 of the Cr.P.C., the Court of Sessions will not be able to take cognizance of any offence unless the case is committed to it by the Magistrate under the Code of Criminal Procedure.

5. It is submitted that as the place of occurrence falls within the territorial jurisdiction of learned Judicial Magistrate First Class, Boko, unless the charge sheet is submitted before the appropriate Court, the petitioner would not be able to approach the appropriate Court and make a prayer for bail.

6. The prayer for bail of the petitioner is opposed by the learned Special PP, Wildlife and in support of his contention that the conditions required under section 51(B) of the Wildlife Protection Act, 1972 would be applicable, he has placed reliance on the order dated 16.12.2021 passed by the Coordinate Bench

of this Court in BA 3226/2021.

7. From the contents of the offence report as produced by the learned Special PP, it appears that a leopard cat was killed in a road accident near Hanuman Mandir, Rajapara. It appears that the petitioner had carried the carcass of the animal to his village and had handed it over to the other two co-accused persons to prepare meat out of the said carcass.

8. As the petitioner is not accused of killing the endangered species of wildlife, the Court is inclined to hold that the facts in the present case is distinguishable from the facts presented in BA 3226/2021, where the subject matter was killing of the pangolin, an endangered species.

9. In view of the statement made by the petitioner in para-20 of the application that he would not commit any such offence again, the Court is inclined to record its satisfaction that as the petitioner has been in custody for last 30 days he will not repeat the offence. Accordingly, the Court is inclined to release the petitioner namely, Ranjeet Chetry on bail on furnishing a bail bond of Rs.50,000/- (Rupees fifty thousand only) with one solvent surety of like amount to the satisfaction of the learned Chief Judicial Magistrate First Class, Boko.

10. Bail is granted on the following conditions:

1. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
2. The petitioner shall not directly or indirectly make any inducement,

threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

3. The petitioner shall not obstruct the smooth progress of the trial/ investigation.

4. The petitioner shall not misuse his liberty in any manner.

5. The petitioner shall not jump over the bail.

6. The petitioner shall once again appear before the IO once in 15(fifteen) days and he shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.

7. In the event the petitioner is found involved in any similar offence, it would be open to the IO to move the jurisdictional Court and apply for cancellation of bail.

8. On submission of such charge sheet, the petitioner shall appear before the concerned Court and shall make a fresh application for grant of bail. This condition is imposed on the ground that the charge sheet is found to be submitted before the Court of learned Session Judge and not before the Competent Court, within the meaning of section 193 of Cr.P.C. Accordingly, on appearance of the petitioner before the IO, the IO shall inform him when the charge sheet would be submitted before the competent Court.

11. A copy of the offence report produced by the learned Special PP is returned.

**JUDGE**

**Comparing Assistant**