

GAHC010139572023



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

Case No. : Bail Appln./2246/2023

PURNANANDA YEIN AND ANR
S/O KAMAL YEIN
R/O VILL- ARCHILASON
P.S. SILAPATHAR
P.O. BHAGABAN
DIST. DHEMAJI, ASSAM

2: LAKHINATH PANGING
S/O JIBESWAR PANGING
R/O VILL- ARCHILASON
P.S. SILAPATHAR
P.O. BHAGABAN
DIST. DHEMAJI
ASSA

VERSUS

THE STATE OF ASSAM
FOREST AND WILDLIFE DEPARTMENT)
REP. BY SPECIAL PP ASSAM

Advocate for the Petitioner : MR Z ALAM
Advocate for the Respondent : SPECIAL PP ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.07.2023

Heard Mr. N. D. Sarma, learned counsel appearing for the accused

petitioners as well as Mr. D. Gogoi, learned Special Public Prosecutor appearing for the Forest and Wild Life department.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Purnananda Yein and 2. Lakhinath Panging**, have prayed for grant of bail in connection with **Offence Report No. D/02 of 2023-24 dated 31.05.2023 registered under Sections 9, 39, 40, 42, 50, 51 and 52 read with Section 2 (11, 14, 16, 18) of Wild Life Protection Act, 1972.**

The offence report, as called for, is received.

Mr. N. D. Sarmah, learned counsel appearing for the accused petitioners, submits that the accused persons have been languishing in judicial custody for 50 days despite being innocent. Mr. Sarmah further submits that both the accused persons, who live under the common roof attempted to cause selling of 3(three) numbers of ivory of dead domesticated elephants belonged to one Manuram Yein. According to Mr. Sarmah, due to poverty, the accused petitioners, who are working as Mahout attempted to cause selling of those ivories to strangers. In this connection, Mr. Sarmah has drawn attention to Annexure-3 and Annexure-4, the permission fee of grazing Tax of elephant and dead certificate of one elephant which died on 04.01.2023, standing in the name of said Manuram Yein.

Per contra, Mr. D. Gogoi, learned Special Public Prosecutor appearing for the Forest and Wild Life department, submits that the accused persons were caught red-handed while they attempted to sell the ivories.

The case relates to recovery and seizure of 3(three) numbers of ivory of dead domesticated elephants from the possession of the accused petitioners.

A perusal of the record of Offence Report prima facie reveals that the

seized ivories were belonged to one Kamal Yein, who is yet to be examined in connection with the case. However, there is indication that the accused petitioners contemplated to take share of sell proceed of the ivories. Their case has come to light during investigation by the Forest official/investigating Forest Officer. Therefore, this Court is of the opinion that further continuation of the detention of the accused petitioners for the purpose of the ongoing investigation may not be required.

Accordingly, it is provided that the accused petitioners, named above, shall be released on bail of **Rs. 40,000/-each** with one surety of like amount to the satisfaction of the **learned Chief Judicial Magistrate, Dhemaji** subject to the following conditions-

- (i) That the accused petitioners shall cooperate with the Investigating Officer as and when required;
- (ii) That the accused petitioners 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 them from disclosing such facts to the Police Officer or the Court; and
- (iii) That the accused/petitioners shall refrain from committing any similar offences in future of which they are accused or suspected of commission.

This disposes of the bail application.

JUDGE

Comparing Assistant