GAHC010168722023

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

**Case No. : Bail Appln./2763/2023**

JITENDRA DOLEY
S/O- SUREN DOLEY, RESIDENT OF VILLAGE- NAM PICHALA SUBANSIRI,
PO- SUBANSIRI, PS- GOHPUR, DIST.- BISWANATH, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY SPECIAL PP

**Advocate for the Petitioner** : MR. M BISWAS

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

**BEFORE**
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**Date : 14.08.2023**

Heard Mr. M. Biswas, learned counsel for the accused/petitioner. Also heard Mr. B. Sarma, learned Special Public Prosecutor, Wild Life.

2. This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioner, namely, **Jitendra Doley,** in connection with **Offence**

**Report No. CIR/01 of 2023,** registered under Sections **49, 49B and 51 of Wildlife(Protection) Act, 1972 r/w Wildlife (Protection) (Assam Amendment) Act, 2009.**

3. The learned counsel for the petitioner has submitted that the accused was arrested on 19.06.2023. He has completed 57 days in jail hazot. It is further submitted that nothing was recovered from the possession of the accused/petitioner except one mobile handset. Under such backdrop, the petitioner may be released on bail.

4. On the other hand, learned Special Public Prosecutor, Wild Life has submitted that during the course of investigation, it reveals that the present petitioner was actively involved in illegal trade and transaction of rhino horn with their accomplices. All the accused persons have also confessed their guilt.

5. Regarding Assam Amendment Act, learned Special Public Prosecutor has submitted that after amendment, the offence punishable under Section 51 Wildlife (Protection) Act shall be cognizable, non-bailable and traiable by the court of Sessions. So the mandatory period is 90 days. It is further submitted that the investigation is still going on to break the racket of illegal trade of rhino horn with the help of Arunachal Pradesh police. Therefore, prayer of the petitioner may not be considered at this stage.

6. I have considered the submissions made by the learned counsel for the parties.

7. Section 51 of Wild Life (Protection) Act, 1972 states that-

(1) Any person who contravenes any provision of this Act or any rule

or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to twenty five thousand rupees or with both.

Provided that where the offence committed is in relation to any animal specified in Schedule I or Part II of Schedule II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence relates to hunting in a sanctuary or a National Park or altering the boundaries of a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees.

Provided further that in the case of a second or subsequent offence of the nature mentioned in this sub-section, the term of imprisonment shall not be less than three years but may extend to seven years and also with fine which shall not be less than twenty-five thousand rupees.

8. As per Wildlife (Protection) Assam Amendment Act, 2009 which reads as follows-

Amendment of Section 51- In the principal Act, in Section 51, in sub-section (1),

(i) In the first proviso-

(a) xxxxx

(b) for the words 'three years', 'seven years' and 'ten thousand', the words 'seven years', 'ten years' and 'fifty thousand' respectively, shall be substituted.

(ii) In the second proviso, for the words 'three years', 'seven years' and 'twenty five thousand', the words 'ten years', 'life imprisonment' and 'seventy five thousand' respectively, shall be substituted.

9. It appears that as per first proviso for the words 'three years', 'seven years' and 'ten thousand' has been substituted 'seven years', 'ten years' and 'fifty thousand' as a result of which, the mandatory period be considered as 60 days.

10. Nothing has been found in the case diary against the accused/petitioner that any other case has been registered against him. As it appears that the petitioner has been detained since 19.06.2023. Considering the length of detention, the prayer of the petitioner is allowed.

11. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Offence Report No. CIR/01 of 2023,** registered under Sections **49, 49B and 51 of Wildlife(Protection) Act, 1972 r/w Wildlife Protection (Assam Amendment) Act, 2009,** on furnishing bail bond of **Rs.30,000/-** with **two suitable sureties** of the like amount, to the satisfaction of learned SDJM, Gohpur, Biswanath, Assam.

12. The direction for bail is further subject to the conditions that the accused-

petitioner:

(a) shall not leave the territorial jurisdiction of learned SDJM, Gohpur, Biswanath, Assam without prior written permission from him/her;

(b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) 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 the Court or to any police officer.

(d) shall appear before the Investigating Police Officer once in a week for six weeks after their release on bail as and when called upon by the Investigating Police Officer till the investigation of the case is completed.

13. That being so, if the petitioner violates any of the above condition(s) in future, the learned Special Public Prosecutor shall apprise this Court to cancel the bail order.

14. In terms of the above, this bail application stands disposed of.

15. Return the case diary.

**JUDGE**

**Comparing Assistant**