

GAHC010135472024



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

Case No. : Bail Appln./1955/2024

NAR BAHADUR MAGAR
S/O SRI ABHIMAN MAGAR, RESIDENT OF MAGHE ROWMARI, PS BEHALI,
DIST BISWANATH, ASSAM 784179

VERSUS

THE STATE OF ASSAM AND ANR
ENVIRONMENT AND FOREST DEPARTMENT, REP. BY THE PRINCIPAL
CHIEF CONSERVATOR OF FOREST AND HEAD OF FOREST FORCE, ASSAM,
ARANYA BHAWAN PANJABARI, GUWAHATI, KAMRUP M ASSAM 781037

2:FOREST RANGE OFFICER
BORGANG RANGE
BORGANG
BISWANATH CHARIALIASSA

Advocate for the Petitioner : MR. DITUL DAS
Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

22.07.2024

Heard Mr. D. Das, learned counsel appearing for the accused petitioner as well as Mr. P. Borthakur, learned Standing counsel, Forest.

By filing this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Nar Bahadur Magar**, has prayed for grant of bail in connection with **Case**

No.BG/14/WL of 2024-25 under Sections 2, 9, 39, 44, 48, 50 and 51 of the Wildlife (Protection) Act, 1972.

Learned counsel for the petitioner has submitted that the petitioner is innocent and no way connected with the alleged offence nor he had hunted any wild pig. The accused petitioner has been arrested in connection with this case purely on suspicion.

It is also the submission of learned counsel for the petitioner that though not admitting, if the petitioner has committed the offence as alleged, in this case also the prayer for bail of the accused petitioner can be considered because of the fact that the alleged wild pig has not come under Schedule-I as specified under Wild Life (Protection) Act but under Schedule-II wherein mandatory period is 60 days.

According to learned counsel for the petitioner, the accused petitioner has been detained custody for last 42 days since his arrest on 10.06.2024. Hence, considering the length of detention, prayer for bail may be considered.

Mr. Borthakur, learned Standing counsel, Forest on the other hand submits that the samples seized related to the alleged offence has been sent for forensic examination but the FSL report in this regard is still awaited for which the final offence report has yet to be submitted. It is also submitted that around 20 kg of wild pig meat was seized from the house of the petitioner. It is further submitted that there is State Amendment on Wild Life (Protection) Act and as per Section 51(B) all the offences relating to Wild Life (Protection) Act is cognizable, non-bailable and triable by the Court of Sessions.

Learned Standing counsel, Forest has lastly contended that if bail is granted to the petitioner, some stringent conditions may be imposed so that trial may not be hampered.

I have considered the submission of learned counsel for both the parties.

It reveals that Andaman Wild Pig falls under Schedule-I and Wild Pig is under Schedule –II. There is no reflection in the Assam Amendment regarding animals specified under Schedule-I and Schedule –II.

In the case in hand, suspected wild pig meat was seized from the house of the petitioner. The FSL report is not yet received.

Hence, considering the length of detention, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary in the interest of investigation of the case.

Accordingly, the petitioner, named above, shall be released on bail, on furnishing bail bond of **Rs.50,000/-** with **two suitable sureties** of the like amount, to the satisfaction of learned **Chief Judicial Magistrate, Biswanath Chariali**.

The direction for bail is further subject to the conditions that the petitioners:

- (a) shall not leave the territorial jurisdiction of learned Chief Judicial Magistrate, Biswanath Chariali 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) the petitioner shall appear before the Investigating Police Officer once in a week for six weeks after his release on bail as and when called upon by the Investigating Police Officer till the investigation of the case is completed.

Breach of any of the above conditions shall render cancellation of bail in accordance with law.

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

JUDGE

Comparing Assistant