

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4548 of 2018**

Lokeshwar Singh Thakur S/o Sangram Singh Aged About 66
Years R/o- Behind Of Stadium, Shri Ram Colony Boirdadar,
Raigarh, Police Station Chakradharnagar, Tahsil And District-
Raigarh, CG

---- Applicant

Versus

State Of Chhattisgarh Through- Range Forest Officer, Raigarh,
Forest Range, Raigarh, District- Raigarh, CG

---- Respondents

For applicant	Shri Kishore Bhaduri and Shri Pawan Kesharwani, Adv.
For State	Shri Dheeraj Wankhede, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****19-7-2018**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court. His first bail application was dismissed by this Court vide order dated 1-11-2017 on merit.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No. (Forest) 4780/21, Range Officer Case No. 100/2017 registered at Range Forest Officer, Raigarh Forest Range, Raigarh, District Raigarh (C.G.) for the offence punishable under Sections 09, 39, 40, 42, 51, 52 of Wild Life Protection Act, 1972.
3. Case of the prosecution, in brief is that on 23/04/2017 Assistant Conservator of Forest had received information from the informer that hunted wild life is being transported in the Maruti Vehicle No. C.G.04 ZD 5733. Near the Village Junwani said vehicle was stopped by the Forest Guard Paluram Sahu. During the enquiry applicant and Manoj Gupta ran away from the spot along with said vehicle. Thereafter after obtaining the search warrant search was conducted to the house of the applicant and trophy of Chital, Chausingha, Barahsingha along with crust of some animal have been seized.
4. Learned counsel for the applicant argued that charge sheet has been filed by the police which is not competent to file the same under the Wile Life Protection Act, 1972. The applicant is in custody from 25-4-

2007

5. On the other hand, learned State counsel opposes the bail application and submitted that charge sheet has not been filed by the police officer but it has been filed by the forest officer.
6. Counsel for the applicant placed reliance on a decision of Hon'ble Supreme Court in **Dataram Singh -v- State of UP** [(2018) 3 SCC 22] wherein it has been observed that there is no doubt that the grant or denial of bail is entirely the discretion of the Judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by the Supreme Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumscribed of a case.
7. Counsel for the applicant further placed reliance on a decision of Gujarat High Court dated 9-5-2012 passed in Criminal Misc. Application No. 9130/2009 wherein the application filed under Section 482, Cr.P.C. has been allowed, the FIR and the charge sheet has been quashed.
8. If allegedly charge sheet has not been filed by a competent officer, even then, this circumstance itself is not sufficient to give benefit of Section 439 of the Cr.P.C. to the applicant.
9. Looking to the facts and circumstances of the case, the applicant does not get any help from the aforesaid judicial precedents laid down in above cases. Custody in bail for a long time is also not sufficient ground for applicant to be enlarged on bail.
10. There is no change of circumstances in the case which may entitle the applicant for grant of bail.
11. Looking to the facts and circumstances of the case, the application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge