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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5308 of 2019**

1. Thakur Singh Markam S/o Anand Sing Aged About 30 Years

2. Markam S/o Toran Singh Aged About 23 Years

Both are R/o Village Dariya (Samanpur), Tahsil Bodla, Thana Jhalmala, District Kabirdham Chhattisgarh.

3. Dasrusingh Parte S/o Ram Singh Aged About 24 Years R/o Khamhariya, Thana Rengakhar, Tahsil Bodla, District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through Police Station Lohara, District Kabirdham Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh .

---- Respondent

For the Applicant	:	Shri Malay Jain, Advocate
For the State	:	Shri H.S. Ahluwalia, Dy. Advocate General

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****03/09/2019**

1. This is the second bail application under Section 439 of the CrPC. Earlier first bail application of the applicant was dismissed as withdrawn by this Court on 20/06/2019 in MCRC No. 3743/2019.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.71/2019 registered at Police Station Lohara, District Kabirdham (C.G.) for the offence punishable under Section 51 of Wildlife Protection Act.
3. Case of the prosecution, in brief is that on 11/05/2019 Sub Inspector Domar Sahu posted at Police Station, Lohara received a secrete information that three persons who are in two motorcycles searching the customer to sale the skin of leopard. On such information he and other police official caught hold the applicants who were in two motorcycles. From the bag of applicant No.1 Thakur Singh Markam one dry skin of leopard which was in two parts seized.
4. Counsel for the applicants submitted that they are innocent and falsely

implicated in the present case. He further submitted that trial Court has taken cognizance on the complaint of police officer which could have not taken. In the case in hand complainant is I.O., seizure witnesses have been examined and turned hostile, thus they may be released on bail.

5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicants is reported in the police case diary.
6. While dealing the bail application Court cannot examined the question of cognizance it is open for applicants to challenge it before the trial Court.
7. Mere turning hostile of seizure witnesses itself not a sufficient ground to enlarge the applicants on bail. In the case in hand I.O. is to be examined.
8. Looking to the above mentioned facts and circumstances of the case, looking to the material available on record against the applicants, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicants on society, the present second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge