

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 949/2018

(VIJAY JANRAO GEDAM **VERSUS** THE STATE OF MAHARASHTRA, THR. FOREST DEPT., RAMTEK)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri S.G. Karmarkar, Advocate h/f Shri C.R. Thakur, counsel for applicant.
 Shri K.N. Shukul, Special Counsel for non-applicant.

CORAM : A.S. CHANDURKAR, J.

DATE : JANUARY 31, 2019.

The applicant who has been arrested on 02.04.2018 pursuant to registration of offence under Sections 2(16), 9, 29, 31, 35(B), 39, 43, 44, 49(A), 49(B) and Section 52 of Wildlife (Protection) Act, 1972 and under Sections 26 and 41 of Forest Act.

As per the complaint filed under Section 55(B) of the Wildlife (Protection) Act, 1972, the applicant who has been arrayed as Accused No.13 in the said offence is alleged to have transported the claws and whiskers of a dead tiger. It is also stated that the applicant was involved in destruction of evidence in that regard.

It is submitted by the learned counsel for the applicant that the material collected by the prosecution does not indicate involvement of the applicant. Though statements of other accused have been recorded, there is nothing to connect the present applicant with the crime in question. At the highest, the only allegation against the applicant is of transportation of tiger claws according to the prosecution. It is submitted that in fact the applicant conducts fishing activity in various areas of forest which is permissible and that he has not involved in the present crime. Considering the fact that the applicant is under arrest for almost ten months, it is submitted that he deserves to be enlarged on bail.

The application is opposed by the learned Special Public Prosecutor for the non-applicant by filing reply. It is submitted that considering seriousness of the offence as well as confessional statement of the applicant dated 14.08.2018, it was clear that the applicant was clearly involved in the alleged offence. It is disputed that the activity of fishing being done by the applicant was legally permissible. Even the act of transporting the tiger claws attracted the penal action and hence, there was no reason to enlarge the applicant on bail.

Heard the learned counsel and perused the documents placed on record. It is to be noted that initially all the accused were enlarged on bail by the Judicial Magistrate (First Class), Ramtek on 01.09.2017. However the Sessions Court by its order dated 22.09.2017 set aside that order and cancelled the bail. That order of the Sessions Court was confirmed by this Court in Criminal Revision Application No.173 of 2017 and pursuant thereto, the applicant has been arrested on 02.04.2018. In the statements recorded by the prosecution, there is reference to the present applicant in the statement of one Suklya Dhurwe/accused no.4. He has stated that he was engaged by the present applicant for a period of two to three weeks by paying Rs.250/- per day for doing work at Totladoh. He has further stated that he alongwith others removed eight claws of a dead tiger out of which four were kept by one Nilkanth and the other four by the present applicant. The applicant also paid him Rupees Six Thousand on returning back. The other statements indicate that the applicant is a Contractor engaged in fishing activities. Admittedly, there is no seizure effected from the present applicant. *Prima-facie*, there is no other statement of any other accused on record corroborating the statements made by said Accused No.4.

Considering the nature of role attributed to the present accused coupled with the material on record against him and in the light of the fact that the applicant has been arrested on 02.04.2018, I am inclined to enlarge the applicant on bail subject to imposing conditions. This order is passed in the light of the material on record against the present applicant.

Accordingly, the applicant who has been arrested pursuant to Forest Crime No.67/1 under Sections 2(16), 9, 29, 31, 35(B), 39, 43, 44, 49(A), 49(B) and Section 52 of Wildlife (Protection) Act, 1972 and under Sections 26 and 41 of Forest Act shall be released on bail subject to furnishing solvent surety for an amount of Rupees Thirty Thousand. The applicant after his release shall attend the Court of Learned Judicial Magistrate (First Class), Ramtek on the 1st and 15th of each month and abide by the directions issued to him. He shall also cooperate with the investigation and shall not take any steps to influence the prosecution witnesses or tamper with the material collected by it.

Criminal application is allowed in aforesaid terms and disposed of.

JUDGE

APTE