

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.573 OF 2020

ORDER:

The present Writ Petition is filed to declare the action of the respondents in seeking to arrest the petitioner, who is arrayed as accused No.3 in ROR No.09-5 of 2017 in OR No.19/C of 2019-20 on the file of Hyderabad East Range, Hyderabad, for the alleged offences under Section 9 read with Section 2(16), 39, 49, 50, 57 and 51 of the Wild Life (Protection) Act, 1972, which is bailable offence, as being illegal, arbitrary with consequential direction to the respondents not to arrest the petitioner in the above crime.

Heard Sri S. Ganesh, learned Counsel for the petitioner and Smt. Pramada Reddy, learned Government Pleader for Forests.

Learned Counsel for the petitioner submits that the respondent authorities have registered a case against one Saleh Bin Mohammed Badam and Ali Bin Mohammed under Wild Life (Protection) Act, 1972, alleging that A-1 was in illegal possession of Slow Loris (live animal), Indian Star Tortoise (live animal) and Soft Shell Turtle (live animal) and that A-1 and A-2 are doing business in Wild Life animals. It is upon the arrest of A-1 and A-2, who were initially absconding and on being apprehended, A-2 confessed that he is working for one Mohd. Mustaq Hussain Qureshi, the petitioner herein, whereupon, the respondent authorities have included the name of the petitioner, as A-3 in the above crime. It is claimed by the learned Counsel for the petitioner that the name of A-3 was added only based on the confession made by A-2 and also that the live animals having recovered from the residence of

A-1, the petitioner cannot be implicated in the case and the authorities cannot seek to arrest the petitioner.

Learned Government Pleader places on record the written instructions along with the statements of A-1 and A-2 recorded by the authorities. Based on the written instructions placed on the file of this Court, learned Government Pleader submits that the authorities recorded the statement of A-2, wherein A-2 confessed that he is working for one Mohamed Mushtaq Hussain Qureshi (petitioner herein) of Fortune Associates located at Dr. No.10-5-5/2/6 Banjara Hills Road, Masab tank, Hyderabad, whereupon the said Qureshi has been added as accused No.3 in the above case and efforts to secure the arrest proved futile and the said person is absconding. Learned Government Pleader submits that A-1 and A-2 have been apprehended and produced before the Chief Metropolitan Magistrate, Nampally, Hyderabad, while A-3 is at large. It is also submitted that the case is under investigation.

Further, the Learned Government Pleader submits that, the petitioner herein had submitted bail application before The IV Additional Metropolitan Sessions Judge, Hyderabad in Criminal M.P. No.4396 of 2019 on 13.12.2019 which stood dismissed. Thereafter, the petitioner moved this Court in Criminal Petition No.8402 of 2019, but was unsuccessful in securing any order. Having failed to secure the bail before the Magistrate as well orders from this Court in proceedings under Section 482 of Cr.P.C, the petitioner has now filed the present Writ Petition by suppressing the above facts and therefore no indulgence is required to be shown by this Court and the Writ Petition may be dismissed.

Having given due consideration to the submissions made on either side and perusing the material on record, it is to be seen that as per the admission of the petitioner, the offences with which the petitioner charged are bailable in nature and in such cases it is well settled that no anticipatory bail or any order in the nature of such anticipatory bail can be granted.

Further, as the petitioner has already moved the IV Additional Metropolitan Magistrate on earlier occasion seeking for grant of bail and also having approached this Court by way of a Criminal Petition, it is not open for the petitioner now to invoke the writ jurisdiction for the said relief under the guise of the relief of seeking not to arrest the petitioner in the above case.

Further, it is also to be seen that the Writ Petition has been filed by the petitioner suppressing the fact of the petitioner having failed to secure bail before the IV Additional Metropolitan Sessions Judge, Hyderabad, and also having filed Criminal Petition No.8402 of 2019 before this Court. Since, the petitioner has approached this Court by suppressing the above facts, the petitioner is not entitled for any relief being granted by this Court, as the petitioner while invoking the jurisdiction of this Court under Article 226 of the Constitution of India is required to approach with clean hands, as observed by the Hon'ble Supreme Court in **SJS Business Enterprises Private Limited v. State of Bihar**¹.

For the aforesaid reasons, the Writ Petition is dismissed. No order as to costs.

¹ (2004) 7 SCC 166

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE T.VINOD KUMAR

Date: 27.01.2020.

MRKR

