

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3316 OF 2024

Ashok Dinkar Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

- Ms. Shabnam Shaikh, for Applicant.
- Mr. Balraj B. Kulkarni, APP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 10th DECEMBER, 2024.

P. C. :

1. Heard learned counsel for the applicant and the learned APP for respondent – State.

2. The applicant in the present case is apprehending arrest in connection with C.R. No. WL/49 of 2024, registered at the instance of Range Forest Office, Gargoti, District Kolhapur, for offences under Sections 9, 39(1) and 51 of the Wild Life (Protection) Act, 1972. The allegation against the applicant is that he alongwith co-accused persons caused death of two wild pigs at Aralgundi, Gargoti, District Kolhapur and skinned the animals, cut them into pieces and thereafter distributed the pieces.

3. The learned counsel for the applicant submits that in the present case the alleged incident is said to have taken place on 15th February, 2024, while the offences were registered after almost 8 months on 05th October,

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2024. It is submitted that registration of the said offences on the face of it is malicious, for the reason that an earlier C.R. was already registered bearing WL No.06 of 2024 for the said date i.e. on 15th February, 2024, against the applicant for identical offences involving killing of wild pigs at Taluka Ajara, District Kolhapur, about 50 kms from Aralgundi, Gargoti, District Kolhapur, concerning the present incident. It is further submitted that the applicant is the social activist, who has been highlighting the illegal cutting of trees and he has been seeking information under Right to Information Act, 2005, due to which the Forest Officers have acted in a malicious manner to institute such a proceeding against the applicant.

4. It is further submitted that, other than the statement of the co-accused persons, there is no material against the applicant, insofar as the present case is concerned. The applicant is ready to cooperate with the investigation.

5. learned APP, on the other hand, submits that the offences registered in the present case are serious in nature, as punishment of imprisonment can be imposed upto 7 years and that wild pigs are included in the relevant schedule of the aforesaid Act. It is also submitted that the applicant has a licensed gun, which is said to have been used at the time of the incident.

6. This Court has considered the rival submissions in the light of the documents placed on record. It is relevant to note that as regards offence bearing C.R. No.WL-06 of 2024 dated 15th February, 2024, registered at the behest of the Range Forest Officer, Taluka Ajara, District Kolhapur, the applicant was granted interim relief in an anticipatory bail application by the Sessions Court, taking note of the fact that there appeared to be lack of evidence to connect the applicant with the incident in question. This Court is informed that the interim relief is still operating in favour of the applicant.

7. It is also relevant to note that for an alleged incident of the very same date i.e. 15th February, 2024, the concerned Forest Officer took about 8 months to register the subject crime against the applicant. The offences in the present case concerning an alleged incident dated 15th February, 2024, said to have occurred in Aralgundi, Gargoti, District Kolhapur, about 50 kms. from Ajara, was registered on 05th October, 2024. *Prima facie*, there appears to be substance in the contention raised on behalf of the applicant that the offence has been registered after substantial delay and there does not appear to be any semblance of an explanation as to why it took about 8 months for the said offences to be registered. It is also interesting to note that if the allegations are to be considered, then the applicant committed the offence at Ajara on 15th February, 2024 and then again committed similar offence at Aralgundi,

Gargoti, District Kolhapur, about 50 kms away on the same date and yet, FIR concerning the alleged incident at Aralgundi, was registered after about 8 months on 05th October, 2024.

8. Apart from this, there does not appear to be any material other than the statements of the co-accused persons against the applicant. The observations made by the Sessions Court in paragraph No.7 of the order rejecting the anticipatory bail application of the applicant appear to be erroneous. It has been observed that the statements of the co-accused persons recorded as per Section 50(9) of the aforesaid Act are admissible during the course of trial. A perusal of Section 50(8) read with Section 50(9) of the aforesaid Act would show that such statements recorded under Section 50(8) of the aforesaid Act, would be admissible only if they have been recorded before an Officer of Rank not below Assistant Director of Wild life Preservation in the presence of the accused person. There is nothing to indicate that the aforesaid statements were recorded in presence of the applicant in the present case and therefore, this is another ground in favour of the applicant. Since the applicant is ready to cooperate with the investigation, the application deserves to be allowed.

9. In view of the above, the application is allowed in the following terms:

- (A) In the event the applicant is arrested in connection with FIR No. C.R. No. WL/49 of 2024, registered at the instance of Range Forest Office, Gargoti, District Kolhapur, he shall be released on bail, on furnishing PR Bond of ₹25,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.
- (B) The applicant shall remain present before the Investigating Officer on 13th December, 2024, between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.
- (C) The applicant shall cooperate with the investigation.
- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail.

11. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present applications and that the Trial Court shall proceed further, without

being influenced by the observations made in this order.

12. The applications are disposed of.

(MANISH PITALE, J.)