



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 653 OF 2023

Misram S/o Raghunath Jakhar
..VS..

State of Maharashtra through R.F.O., Chatgaon, Forest Office, Gadchiroli

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

Court's or Judge's orders

Mr. D.H. Sharma, Advocate for applicant.
Mr. Abhijeet Mate, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : FEBRUARY 08, 2024

PRONOUNCED ON : FEBRUARY 14, 2024

Apprehending the arrest at the hands of the police in connection with POR No.07657/191410/2023, registered with R.F.O., Chatgaon of Gadchiroli District for an offence punishable under Sections 9, 39, 48, 49B, 50 and 51 of the Wild Life (Protection) Act, 1972, (for short, "the said Act") the applicant approached to this Court for grant of pre-arrest bail.

2. As per the accusation in Compartment No.413 of Ambeshivni Forest Area, two tigers were hunted and their organs were illegally extracted. Total twelve accused persons were arrested by the Investigating Agency during the course of investigation. During the investigation, the involvement of the present applicant revealed in the commission of the said offence and, therefore, on 31.07.2023, the Investigation Officer conducted the house search of the applicant and cash amount of

Rs.14,80,000/- and some documents were found and seized by the Investigating Agency. Initially, the applicant was arrested and produced before the Metropolitan Magistrate, New Delhi, however, the applicant on the same day moved an application for transit bail, which was granted by the Metropolitan Magistrate, New Delhi vide order dated 31.07.2023, on the ground that there was no compliance of Section 41A of the Code of Criminal Procedure, 1973. Thereafter, the present applicant approached to the Sessions Court, Gadchiroli and filed an application for anticipatory bail, the same was rejected.

3. As per the allegations, the Assam Forest Department and Wild Life Crime Control Bureau conducted joint operation and seized a tiger skin along with 17 kgs. of tiger bone from the possession of co-accused Mayadevi, Prakash Kuredia, Shriramdas Gopi, Smt. Rajvati W/o Omprakash and Mr. Arjun Singh. During the investigation and interrogation with co-accused Mayadevi, it reveals that the tiger skin was illegally transported from Gadchiroli. The another co-accused Mr. Sonu Singh was also interrogated wherein he confessed that upon the instructions from the Mayadevi, he transported the tiger skin to Assam and handed over the same to the purchaser for consideration of Rs.10,00,000/-. He further alleged that he has handed over the said amount to Mayadevi and only an amount of Rs.25,000/- out of the same was given to him therefore,

he raised objection and said Mayadevi informed him that she need to distribute the amount to various people including the present applicant. The present applicant is known as a “Chacha” in all the trading groups, all over India. During search and seizure of the house of present applicant, an amount of Rs.14,80,000/- was seized along with the documents i.e. Bank details and contacts of Wild Life Traders. On the basis of said allegations, the crime is registered against the present applicant.

4. The learned Counsel Mr. Sharma for the applicant submitted that the applicant is a retired forest officer aged about 81 years. He is implicated in the crime mainly on the basis of the confession statement of the co-accused. There is no direct evidence to show the involvement of the present applicant. As far as, the recovery of the amount is concerned, he has filed an affidavit of his relatives from whom he has obtained the amount for the ‘Kidney transplant’ of his son. The applicant is also suffering from various ailments. There is no direct evidence to connect the present applicant with the alleged offence. Besides confessional statement, no other material is collected by the Investigating Officer. The custodial interrogation of the present applicant is not required and hence, the applicant be released on anticipatory bail.

5. The learned Additional Public Prosecutor Mr. Mate strongly opposed the application on the ground that on 28.06.2023, the Police Department, Forest Department

and State of Assam and WCCB (Wild Life Crime Control Bureau) have conducted joint operation and seized tiger skin along with some body parts of the wild tiger from other accused within the territorial jurisdiction of Agra Police Station. Accordingly, this fact is informed to the Forest Department of Assam and crime is registered vide Crime No. G-10/2023. During investigation, it reveals that the tiger skin was illegally transported from Gadchiroli area and, therefore, an alert was sent to the Forest Department at Gadchiroli. On receipt of the alert, Forest Officials of Gadchiroli raided the spot and arrested thirteen accused with the huge stock of weapons along with the traps and some wild life articles. Thereafter, POR was registered, accused were arrested and produced before the Court. During the course of investigation, it revealed that present applicant is also involved in the crime, who is known as a 'Chacha' has received some amount from the co-accused. It is further revealed to the Cyber Cell of Forest Department that the applicant is having connection with the various wild life traders and the entire call detail data was analyzed and found that he has communicated with the wild life traders and the present applicant is the person, who controls the illicit wild life in India, therefore, his house search was taken. During his house search, the amount of Rs.14,80,000/- was seized along with some documents and contacts of illicit wild life traders. The bank details were also verified, in which it revealed that he received the amounts from wild life traders directly of his bank

account and also the accounts of his grand-daughter namely Vani Manjeet Jakhar. Thus, there is a *prima facie* material against the present applicant with the alleged offence hence, the application deserves to be rejected.

6. After hearing learned Counsel for the applicant and learned APP for the State and on perusal of the evidence collected during the investigation, it reveals that the present applicant is the retired forest officer. During investigation, the co-accused Mayadevi and Raju Gopi Singh Bawari were arrested and their statements were recorded. On the basis of the confessional statement of Raju Gopi Singh Bawari, the involvement of the present applicant revealed. It further revealed from the investigation papers that present applicant, who is the retired forest officer, is in contact with wild life traders and he received some amount from the said traders in his account.

7. Insofar as the present applicant is concerned, the confessional statement of the co-accused reveals that after obtaining the skin of the tiger and other body parts by handing over to the accused, it was transported at Assam and the amount of Rs.10,00,000/- was received, but he has received only Rs.25,000/- therefore, he made enquiry and co-accused Mayadevi told him that some amount is to be paid to one Chacha. During investigation, the present applicant's name is revealed, who is known as 'Chacha'. The Investigating Agency also recorded the statement of one Utkarshakumar

Umeshkumar Ture, resident of Chamorshi, District Gadchiroli. From his statement also reveals that co-accused have transferred an amount of Rs.30,000/- in the account of present applicant, but the transaction was unsuccessful therefore, the another account number was obtained from the present applicant and he has given the account number of Vani Jakhar, who is his granddaughter, in her said account, the amount was deposited. The statement of the present applicant as well as Manish Jakhar are also recorded. The present applicant has stated that some amount was transferred to his account by said Mayadevi, but the transaction was unsuccessful therefore, on his say, the amount was transferred to the account of Vina Jakhar and the said Vina Jakhar transferred the said amount to his account. Thus, from the confessional statement of the co-accused as well as the present applicant, it reveals that amount of Rs.30,000/- is received by the present applicant against the said transaction.

8. Thus, *prima facie* material which is collected during the investigation shows involvement of the present applicant. The confessional statement of the co-accused as well as the present applicant specifically states about the connection between him and the co-accused.

9. An important aspect, as regards admissibility and proof of confessional statement of applicant, on which the prosecution placed reliance, shows that confessional

statements are recorded by the competent Officers. As provided under Section 50(8) of the said Act, which is admissible in evidence, in view of the provision of Sub-Section 9 of Section 50 of the Act, the said provision is an exception to the general plea.

10. It is well settled law that confession made by accused during custody under Section 50(8) of the said Act, must be voluntary and truthful.

11. Only fact needs to be seen is, whether confessional statement is voluntary or not. A confessional statement is said to be voluntary if it is not caused by threat, inducement, torture or pressure. Before recording confessional statements, concerned officer is required to make an enquiry to ascertain whether the accused is under pressure, threat or inducement and why accused intends to make confession. The officer is required to give an understanding that he is not bound to make confession and despite such a warning, if he makes a confession, it could be used as an evidence against him in trial. The competent officer, before recording confession, is required on satisfying himself/herself that accused has made up his mind to confess crime committed by him/her.

12. The co-ordinate Bench, in *Criminal Revision Application No.174/2016* (Yogesh @ Yograj S/o Sakharam Kumbhare and Ors. Vs. State) decided on 5.10.2023 considered scope and admissibility of

confession recorded under Section 50(8) of the said Act and held that as provided under Section 50(9) of the said Act, the evidence recorded by authorized officer under Section 50(8)(d) in the presence of accused is admissible in evidence. The guidelines are issued by the Wildlife Crime Control Bureau, Ministry of Environment and Forest Government of India published in a handbook for Wildlife Crime Investigation Officers and referred Clause No.6.28 which states that the evidentiary value of confessional statement depends on its voluntary character. A confession made under any inducement, threat or promise loses its credibility. Thus, a confession should be voluntary, true and trustworthy. It must be clear and unequivocal admitting the commission of the crime. The statement of the accused can be taken into considerations against another accused involved in the said crime, as per Section 30 of the Evidence Act. Clause No.6.30 shows that the confession should be recorded in the same language and exact words told by the accused.

The co-ordinate bench further held that statement recorded by the forest officers fall in the category of extra judicial confession and the same is admissible in evidence, provided the same is made voluntarily and there is other evidence to corroborate facts disclosed in the confession.

13. In the backdrop of the above well settled provisions, it is to be borne in mind that the said Act has

its object. The provisions under the said Act need to be borne in mind.

14. Here, in the present case, the present applicant who is the Forest Officer and his involvement reveals from the statement of the witness as well as the confession statement of the co-accused. Confessional statement shows the specific role attributed by the present applicant coupled with the transaction and documents found during the search shows that the applicant has in contact with the wild life traders. The statement of the applicant and co-accused are voluntary and recorded after following due process of law. The crimes of killing the wild animals are committed for economic/financial gains.

15. Considering the *prima facie* material against the present applicant, no case is made to grant anticipatory bail to the applicant. In view of that, the application deserves to be rejected and the same is **rejected**.

(URMILA JOSHI-PHALKE, J.)