

HIGH COURT OF ORISSA

BLAPL No. 4971 of 2020

Shyamsundar Behera ... PETITIONER

VERSUS

State of Orissa ... OPPOSITE PARTY

03. 10.08.2020

In view of extraordinary situation arose out of COVID-19, the matter is taken up through video conferencing.

Heard, learned counsel for the petitioner and learned counsel for the State.

The petitioner is in custody in connection with OR Case No.10K/2020-21 corresponding to 2(b)CC Case No.10 of 2020, pending in the court of learned SDJM, Athagarh registered for alleged offences under Sections 9, 39, 44 and 49 of Wildlife Protection Act, 1972 Amended and punishable under Section 51 of the said Act.

The prosecution allegation in brief is that on 19.05.2020, while the forest staff of Kuntuni range were performing patrolling duty, they got some reliable information regarding transportation of pangolin in a scooty having no number plate. Forest official chased the scooty and detained the said rider on Madhusetu and searched his scooty allegedly used in the crime. They rescued one live pangolin and a mobile phone from him. On being asked, the rider of the sooty failed to produce any

valid license or documents for transporting the live pangolin. On further query, the forest officials came to know from the other co-accused Bipin Bihari Bhoi that the present petitioner was also involved in the alleged crime. The forest officials searched for the said co-accused and got information that the present petitioner was residing in his rental house at Dhenkanal. So, the officials proceeded to Dhenkanal and searched the rental house of the petitioner. The forest officials detained the principal accused and brought him to the office of Divisional Forest Officer, Athagarh for interrogation. On interrogation, the co-accused admitted his guilt regarding collection and trading of pangolin and also named the present petitioner. A mobile hand set was seized from the petitioner and he was arrested on 01.07.2020.

Learned counsel for the petitioner submits that the petitioner is a teacher by profession and he has no direct role in the commission of crime except giving some phone number of some persons to the co-accused. It is further submitted that he has been implicated in this case on the basis of the confession of the co-accused. He has no complicity in commission of the alleged crime. It is further submitted that the co-accused has been released on bail by this Court vide BLAPL No. 4066 of 2020.

Learned counsel for the State vehemently opposed the bail application of the petitioner. It is further submitted that the Government has enacted various laws banning the trade of live animals and animal products; the people like the present petitioner are breaking such laws rampantly by killing such an innocent bird. The pangolin, an innocent creature on the earth which is on the verge of extinction as a result of continuous hunting/trafficking by the people like present petitioner. The people who break laws must be severely dealt with. The petitioner seems to be a member of an organized criminal gang involved in poaching and collecting wild animals. In case the petitioner is released on bail, he may commit similar offence.

Though this Court generally is not inclined to grant bail to the people, who are engaged in trafficking or hunting the animal like pangolin but in the instant case, considering the submissions made and the facts and circumstances of the case, period of detention, nature of offence, it is directed that the petitioner be released on bail on some stringent terms and conditions as deemed just and proper by the learned SDJM, Athagarh in the aforesaid case with further conditions that:-

1. he shall co-operate with the investigation and make himself present before the Investigating Officer as and when required.

Violation of any of the aforesaid conditions may entail consideration for cancellation of the bail granted to the petitioners.

The Bail Application is accordingly disposed of.

As the Lock-down period is continuing for COVID-19, learned counsel for the petitioner may utilize the soft copy of this order available in the High Court's website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No. 4587 dated 25.03.2020.

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S. K. Panigrahi, J.