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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Reserved on 20-01-2022**

**Pronounced on 27-01-2022**

**MCRC No. 9029 of 2021**

1. Ganesh Ram S/o Shri Pingal Ram Manjhi Aged About 26 Years R/o Village- Bangla Pali, Van Parikshetra Arjuni, P.S. And Tahsil - Kasdol, Police Outpost- Sonakhan, District- Balodabazar-Bhatapara (C.G.)
2. Dabel S/o Late Shri Mangluram Manjhi Aged About 66 Years R/o Village- Bangla Pali, Van Parikshetra Arjuni, P.S. And Tahsil- Kasdol, Police Outpost- Sonakhan, District- Balodabazar-Bhatapara (C.G.)
3. Fulsingh S/o Shri Mahadev Manjhi Aged About 20 Years R/o Village Bangla Pali, Van Parikshetra Arjuni, P.S. And Tahsil - Kasdol, Police Outpost- Sonakhan, District- Balodabazar-Bhatapara (C.G.)
4. Kamlesh S/o Shri Chandel Manjhi Aged About 34 Years R/o Village- Bangla Pali, Van Parikshetra Arjuni, P.S. And Tahsil- Kasdol, Police Outpost- Sonakhan, District- Balodabazar-Bhatapara (C.G.)

---- Applicants

**Versus**

- The State Of Chhattisgarh Through- The Forest Officer, Forest Circle Arjuni, District- Balodabazar-Bhatapara (C.G.)

---- Non-applicant

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For Applicants	: Shri Sunil Sahu, Advocate
For State	: Shri Animesh Tiwari, Deputy Advocate General

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**Hon'ble Shri Justice Narendra Kumar Vyas**

**C.A.V. ORDER**

1. The applicants have filed this first bail application under Section 439 of the Cr.P.C. for grant of regular bail as they have been arrested in connection with crime No. 15571/13 registered at Forest Officer, Forest Circle Arjuni, Distt – Balodabazar-Bhatapara (C.G.) for the offence punishable under Sections 9, 39, 50, 51 and 52 of the Wild Life (Protection) Act, 1972.
2. Case of the prosecution, in brief is that the officers of the Forest Department Arjuni Circle received information on 26.10.2021 that applicants have hunted a female Sambar. On such information being received the Forest Officers prepared a team, conducted search and found that applicants were in possession of meat, they



seized the meat and recorded their statements in which they stated that the dogs were caught hold of the Sambar so forest officer arrested them for alleged commission of offence.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in the present case and they are innocent. He would further submit that the animal which has been alleged to have been killed by the applicants falls within Schedule-I of the Wild Life (Protection) Act. The Seizure Panchanama as well as recovery of the wild animal is from the spot, not from the possession of the applicants. The female Sambar was killed by dogs, they have not haunted the animal. He would further submit that the final report has not been submitted, the offence is triable by the Judicial Magistrate First Class, punishment may extend to three years and trial may take some time and the applicants are in custody since 26.10.2021. The applicants are ready to furnish adequate surety and abide by all the directions and conditions, which may be imposed by this Court, therefore, they may be released on bail. In support of his arguments, learned counsel for the applicants has relied upon the judgment of coordinate Bench of this Court in case of **Arjun Singh and Others vs. State of C.G.**<sup>1</sup>
4. On the other hand learned counsel for the State opposes the bail application and would submit that the applicants have haunted animal which falls within Schedule III item No. 16 of the Wild Life (Protection) Act and cut its carcass as reflected from the Panchnama. He would further submit that the place where the offence has been committed by the applicants falls within compartment No. 356 to 360 which has been declared Reserve Forest on 07.12.1878.
5. Heard learned counsel for the parties and perused the case diary.
6. For ready reference Schedule-III of the Wild Life (Protection) Act, 1972 is reproduced below :-

**“SCHEDULE III**

[See secs. 2, 8, 1 \*\*\* 9, 11, and 61]

2[\*\*\*]

[1. \*\*\*]

2. Barking deer or muntjac (Muntiacus muntjak)

3. Bharal (Ovis nahura)]

[4. \*\*\*]

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<sup>1</sup> 2015(3) C.G.L.J. 372



5. Chital (*Axix axis*)
- [6. \*\*\*]
7. Gorals (*Nemorheadus goral*, *Nemorhaedus hodgsoni*)
- [8. \*\*\*]
- [9. \*\*\*]
- [10. \*\*\*]
- 11\*\*\*
12. Hyanena (*Hyaena hyaena*)
- [13. \*\*\*]
14. Nilgai (*Boselaphus tragocamelus*)
- [15. \*\*\*]
16. Sambar (*Cervus unicolor*)
- [17. \*\*\*]
- [18. \*\*\*]
19. Wild pig (*Sus scrofa*)
- [20. Sponges (All Calcareans).]”

7. Section 51 of the Wild Life (Protection) Act provides penalties which is reproduced below:-

**“51. Penalties.—** (1) Any person who [contravenes any provision of this Act [(except Chapter VA and section 38J)]] or any rule or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to 3 [three years], or with fine which may extend to 4 [twenty-five thousand rupees], or with both:

[Provided that where the offence committed is in relation to any animal specified in Schedule I or Part II of Schedule II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence relates to hunting in a sanctuary or a National Park or altering the boundaries of a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees:

Provided further that in the case of a second or subsequent offence of the nature mentioned in this sub-section, the term of the imprisonment shall not be less than three years but may extend to seven years and also with fine which shall not be less than twenty-five thousand rupees.]

[(1A) Any person who contravenes any provisions of Chapter VA, shall be punishable with imprisonment for a term which shall not be less than 7 [three years] but which may extend to seven years and also with fine which shall not be less than 8 [ten thousand rupees].]

[(1B) Any person who contravenes the provisions of section 38J, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that in the case of a second or subsequent offence





the term of imprisonment may extend to one year or the fine may extend to five thousand rupees.]

[(1C) Any person, who commits an offence in relation to the core area of a tiger reserve or where the offence relate to hunting in the tiger reserve or altering the boundaries of the tiger reserve, such offence shall be punishable on first conviction with imprisonment for a term which shall not be less than three years but may extend to seven years, and also with fine which shall not be less than fifty thousand rupees but may extend to two lakh rupees; and in the event of a second or subsequent conviction with imprisonment for a term of not less than seven years and also with fine which shall not be less than five lakh rupees but may extend to fifty lakh rupees.]

(1D) Whoever abets any offence punishable under sub-section (1C) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.]

(2) When any person is convicted of an offence against this Act, the Court trying the offence may order that any captive animal, wild animal, animal article, trophy, 10[uncured trophy, meat, ivory imported into India or an article made from such ivory, any specified plant, or part or derivative thereof] in respect of which the offence has been committed, and any trap, tool, vehicle, vessel or weapon, used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provisions of this Act, be cancelled.

(3) Such cancellation of licence or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.

(4) Where any person is convicted of an offence against this Act, the Court may direct that the licence, if any, granted to such person under the Arms Act, 1959 (54 of 1959), for possession of any arm with which an offence against this Act has been committed, shall be cancelled and that such person shall not be eligible for a licence under the Arms Act, 1959, for a period of five years from the date of conviction.

[(5) Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (2 of 1974), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to a person convicted of an offence with respect to hunting in a sanctuary or a National Park or of an offence against any provision of Chapter VA unless such person is under eighteen years of age.]”

8. Chapter I (25B) of the Wild Life (Protection) Act provides definition of the Reserve Forest which is extracted below:-

“reserve forest” means the forest declared to be reserved by the State Government under Section 20 of the Indian Forest Act, 1972 or declared as such under any other State Act;”

9. Section 20A of the Indian Forest Act, 1927 as amended in the Madhya Pradesh applicable in the State of Chhattisgarh also





provides with regard to Section 20 of the Indian Forest Act for declaring forest land and wasteland deemed to be reserved forest.

Section 20A is extracted below:-

**“Section 20A. Madhya Pradesh.**—After section 20, insert the following section, namely:— “20A. Forest land or waste land deemed to be reserved forests.—(1) Notwithstanding anything contained in this Act or any other law for the time being in force, any forest land or waste land in the territories comprised within an Indian State, immediately before the date of its merger in any of the integrating States now forming part of this State (hereinafter in this section referred to as the “merged territories”)—

(i) which had been recognised by the Ruler of any such State immediately before the date of merger as a reserved forest in pursuance of any law, custom, rule, regulation, order or notification for the time being in force; or

(ii) which had been dealt with as such in any administration report or in accordance with any working plan, or register maintained or acted upon immediately before the said date and has been continued to be so dealt with thereafter;

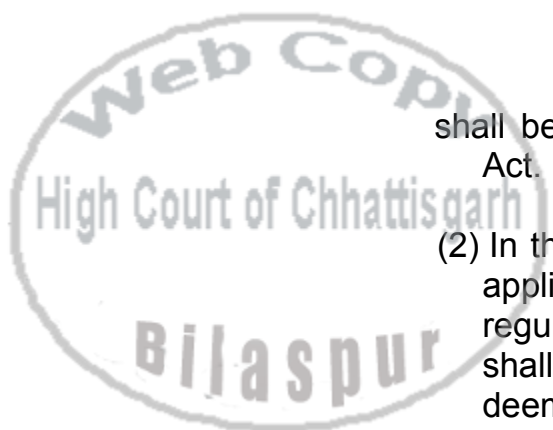
shall be deemed to be reserved forests for the purposes of this Act.

(2) In the absence of any rule, order or notification under this Act applicable to the area in question, any law, custom, rule, regulation, order or notification mentioned in sub-section (1) shall, anything in any law to the contrary notwithstanding, be deemed to be validly in force, as if the same had the force and effect of rules orders and notifications made under the provisions of this Act and shall continue to so remain in force until superseded, altered or modified in accordance therewith.

(3) No report, working plan, or register as aforesaid or any entry therein shall be questioned in any Court of law; provided that the State Government have duly certified that such report, working plan, or register had been prepared under the authority of the said Ruler before the date of the merger and has been under the authority of the State Government continued to be recognised, maintained or acted upon thereafter.

(4) Forest recognised in the merged territories as village forests or protected forests, or forests other than reserved forests, by whatever name designated or locally known, shall be deemed to be protected forests within the meaning of this Act and provisions of sub-sections (2) and (3) shall mutatis mutandis apply.”

10. From bare perusal of Section 20A of the Act, it is quite clear that if any forest land has been declared to be reserve forest before merger







of the State by ruler of State Government, it will be applicable with full force, therefore, it is crystal clear that Arjuni Parikshetra falls within the category of Reserve Forest. The applicants were involved in haunting an animal which falls under item 16 of the Schedule III of the Wild Life (Protection) Act in reserve forest therefore, the judgment cited by the learned counsel for the applicants in case of **Arjun Singh (Supra)** is not applicable in the facts of the case.

11. Learned State counsel has referred to the judgment passed by the coordinate Bench of this Court dated 29.07.2016 in MCRC No. 2800/2016 (**Lakhan vs. State of Chhattisgarh**) in which the Court has held that in case of Schedule III animal is haunted within the boundaries of a Sanctuary or a National Park then in such case the offence shall be punishable with not less than three years and may extend to 7 years and also fine not less than Rs. 10,000/- and offence would fall in the category of non-bailable offence as has been classified in Cr.P.C. which reads as under :

II. Classification of offences against other laws				
Offence	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable	
If punishable with imprisonment for three years and upwards but not more than 7 years	Cognizable	Non-bailable	Magistrate of the First Class	
If punishable with imprisonment for less than 3 years or with fine only	Non-cognizable	Bailable	Any Magistrate	

12. If we examine the facts of the case, it is vivid that the offence has been committed in reserve forest and it falls within Section 51(1A) of the Wild Life (Protection) Act, therefore, it is non-bailable offence. The submission made by the learned counsel for the applicants that the offence would be bailable is misconceived.
13. Considering the facts and circumstances of the case, I am not inclined to entertain this bail application, accordingly the bail application deserves to be and is hereby dismissed.
14. However, the trial Court is directed to expedite the trial and conclude the trial within an outer limit of 1½ years from the date of receipt of



copy of this order.

**Sd/-**  
**(Narendra Kumar Vyas)**  
**Judge**

kkd

