

**Bail in wildlife offence cases**

***Bail in wildlife crime matters cannot  
be granted on grounds of parity***

**ALLAHABAD HIGH COURT**

**Mumtaj s/o Peer Bux**

**Applicant (in Jail)**

**Vs.**

**State of U.P. and Another**

**Respondents**

**B.K. RATHI, J.**

**ORDER :** The applicant Mumtaj has applied for bail for offences under Section 49(B)/51 Wild Life (Protection) Act, 1972 (Van Jeev Sanrakshan Adhiniyam), under Section 10/15 Prevention of Cruelty to Animals Act, 1960 and Sections 429 and 411, I.P.C.

2. I have heard Sri G.S. Chaturvedi, Senior Advocate for the applicant and Sri Girdhar Nath, learned counsel for the C.B.I. and Sri A.K. Tripathi, learned Standing Counsel for Wild Life Protection Society, New Delhi.

3. According to the prosecution, on 11-1-2000 the houses of Shabbir and Wahid were searched by a police party headed by C.O. Fatehpur, Shabbir and Wahid were, however, not available. Accused Mohammad Ramjan, Mumtaj Ahmad (applicant), Hamid Ali and Smt. Jiabun Nishan were found in the house. On search more than 400 skins of wild animals, hundreds of teeth and thousands of nails and other precious parts of the body were recovered from their houses. Apart from this, guns were also recovered, which were kept for use for hunting the wild animals. Instruments and machines for taking out and drying the skins and other parts of the body were recovered. According to the prosecution, the price of the articles recovered is crores of rupees and it is alleged in the affidavit filed by Sri Nikhil Gupta, Inspector C.B.I. that the seizure was one of the biggest hauls of wild life skins/products of recent times and pertains to trade of each and every part of wild life animals.

4. It is contended that applicant Mumtaj is not the owner of the house from where the recovery of articles was made. That no recovery was made from his possession. That he is in jail since 12-1-2000. That therefore, no offence has been committed by the applicant. It is further contended that co-accused Mohammad Ramjan and Smt. Jaibun Nishan, who were also arrested along with the applicant, have already been released on bail in Bail Application No. 3442 of 2000 and 2564 of 2000. That the applicant is, therefore, entitled to bail on the ground of parity.

5. In my opinion, the bail cannot be granted on the ground of parity and this is not a compelling reason for granting bail. In this connection, I may refer the case of *Sita Ram vs. State, 1981 18 All Cri C 182*. In this case it was observed that the claims of the principle of consistency and demand for parity by the accused, however, are not compelling ones and cannot override the Judge's contrary view in the case before him, even if the awareness of the desirability of consistency fails to move him to his view. It was further observed that this is an only factor to be considered and not a governing consideration.

**6. After considering the facts of the case and also considering the desirability of consistency, I am of the view that the applicant is not entitled to bail. The parity is not a compelling ground to grant bail and in the present case I am of the view that even on the ground of parity, the applicant is not entitled to bail.**

7. The applicant is not as innocent as is presented before the Court. I have already mentioned the articles recovered. The recovery memo is Annexure 1 to the affidavit and the list of articles recovered runs in

three pages i.e. from page No. 7 to page No. 9. Therefore, it appears that a full fledged Industry of carrying the business of skins of wild animals was being run in the house of co-accused. The wild animals were being murdered and their skins and other precious parts are being separated by mechanical process and were being sold in various markets. This factory cannot be run by one person. Therefore, the owner of the house alone cannot be held responsible for the crime. The applicant was found in the house, involved in the activities and therefore, he is equally guilty. It cannot be accepted that he is innocent and was inside the house by chance.

8. Considering the circumstances of the case, the applicant is not entitled to bail. The application for bail is rejected.

Application dismissed.

[Also reported in 2000 Cri. L.J. 4497]