
(2011) 08 SHI CK 0089
In the High Court Of Himachal Pradesh
Case No : Criminal M.P. (M) No. 559 2011

Roshan Lal

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Evidence Act, 1872 — Section 27
Penal Code, 1860 (IPC) — Section 429
Wild Life (Protection) Act, 1972 — Section 51

Citation : (2011) 08 SHI CK 0089

Hon'ble Judges : Kuldeep Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kuldeep Singh, J.—This judgment shall dispose of Cr. MP (M) No. 559 of 2011 and Cr. MP (M) No. 570 of 2011 as both the petitions have arisen from FIR No. 165 of 2011 dated 16.7.2011, registered at Police Station, Kotkhai. The Status report has been filed in Cr. MP. (M) No. 559 of 2011. The record has been perused.

2. The learned Counsel for the applicants has submitted that applicants have been falsely implicated in FIR No. 165 of 2011 dated 16.7.2011, registered at Police Station, Kotkhai u/s 51 of the Wild Life Protection Act and u/s 429 Indian Penal Code. applicants are innocent. They have committed No. offence. The investigation in the case is complete. No. recovery is to be made from them. The applicants have joined the investigation. It has been submitted by the learned Counsel for the applicants that the applicants will abide by the terms and conditions of the bail, in case they are released on bail.

3. The bail applications have been opposed by the learned Additional Advocate General on the ground that the applicants are involved in a serious case regarding the killing of leopard.

4. I have heard the learned Counsel for the parties on either side. As per status

report, on 16.7.2011 Sunder Lal Verma B.O. Kotkhai has stated that he was informed by Range Officer that in Grabag Beat in Kadevali Nala dead body of one leopard was found. He went to the spot along with other forest officials and found the dead body of one leopard lying in bushes. All paws and jaw of leopard were cut. He also found one rotten dead body of cattle and also dead body of domestic dog owned by Kanwar Bisham. It appeared that the leopard was killed by some unknown person for obtaining claws, teeth and skin by poisoning it or by adopting some other method.

5. It has also been stated that the Petitioners were arrested on 17.7.2011 and their statements u/s 27 of the Evidence Act were recorded and "drat" was recovered from Veer Bahadur and leopard tooth from Roshan Lal. Veer Bahadur disclosed that Roshan Lal and Rajesh applicants have removed the teeth of leopard. Roshan Lal on 27.11.2011 and Rajesh on 30.7.2011 have produced one tooth each of the leopard which have been taken into possession

6. The investigating agency has not stated in the status report that Petitioners are not co-operating in the investigation. On the contrary, it has been stated that both of them have produced one tooth each of the leopard. In these circumstances, the custodial interrogation of the applicants is not necessary in the present case. The applicants have made out a case for grant of bail u/s 438 Code of Criminal Procedure

7. In view of above, both the applications being Cr.MP (M) No. 559 of 2011 and Cr. MP (M) No. 570 of 2011 are allowed. In the event of arrest, both the applicants are ordered to be released on bail in FIR No. 165 of 2011 dated 16.7.2011, registered at Police Station, Kotkhai u/s 51 of the Wild Life Protection Act and u/s 429 Indian Penal Code, on furnishing their personal bonds in the sum of Rs. 25,000/- each with one surety each of the like amount to the satisfaction of Arresting Officer, with the condition that the applicants shall continue to join the investigation as and when called by the Investigating Officer and shall not hamper the investigation and tamper with the prosecution evidence in any manner. The observations made in the judgment are for disposal of the bail application and it shall not be construed as expression of opinion on the merits of the case.

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