



Wildlife Crime Control Bureau
वन्यजीव अपराध नियंत्रण ब्यूरो

GOVERNMENT OF INDIA
भारत सरकार
MINISTRY OF ENVIRONMENT
FORESTS AND CLIMATE CHANGE
पर्यावरण, वन और जलवायु परिवर्तन विभाग

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Subject:- Bail matters under the wild Life (Protection) Act, 1972 – Reg.

India is one of the biodiversity hot spot country with nearly 1000 notified protected Area network including Tiger Reserves, Elephant Reserves, Wild Life Sanctuaries, National Parks, Biosphere Reserves, Community Reserves and Conservative Reserve. As the wildlife resources are dispersed all across the nation and the poaching and illegal trading syndicates are also scattered but connected. In such scenario, when an accused is arrested with wildlife contrabands and digital devices, investigators need time to understand the linkages and enforce effectively to create dent upon the criminal syndicate and poacher network. Therefore tackling bail applications effectively in the court of law in order to bring justice to the voiceless wildlife becomes very crucial.

Bail is an important matter in the process of prosecution/wildlife offences. In view of this, the chronology of recent events with respect to bail petitions concerning special Act like WLPA is hereby documented for the information of all concerned.

The Wild Life (Protection) Act, 1972 under section 51A provides for handling bail applications.

“Section 51 A: Certain conditions to apply while granting bail. –When any person accused of, the commission of any offence relating to Schedule I or Part II of Schedule II or offences relating to hunting inside the boundaries of National Park or wild Life sanctuary or altering the boundaries of such parks and sanctuaries, is arrested under the provisions of the act, then not withstanding anything contained in the Code of Criminal Procedure, 1973 (2 or 1974) no such person who had been previously convicted of an offence under this Act shall, be released on bail unless-

- (a) The Public Prosecutor has been given an opportunity of opposing the release on bail; and***
- (b) Where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”***

Bail matters are dealt seriously in the court of law. The Hon'ble Apex Court as well as the Hon'ble High courts have issued remarkable judgments while considering bail applications filed by the accused involved in wildlife crime. Important judgments pronounced by the Hon'ble Supreme Court of India in the recent past in context of a special act are described below for the benefit of the officials involved in enforcement of the Wild Life (Protection) Act, 1972:

- i. On July 15, 2022, in case of **Kamlesh Versus state of M.P** the Hon'ble Supreme Court of India dismissed the SLP (Criminal)-5955/22 filed by an



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accused (poacher) arrested by the MP state Tiger Strike Force (STSF) in a case pertaining to leopard poaching and illegal trade of its body parts. Case details of the matter follows as, that on Oct, 13, 2021, in a joint operation with STSF (MP) based on the intelligence of WCCB, 04 accused were arrested along with seizure of leopard hide, 06 claws and an SUV in their possession. Further investigation of STSF led to the arrest of 04 more accused and recovery of leopard carcass and also seizure of sloth bear & wild boar body parts, thereby busted an organized gang. Further, in the sequence, several bail petitions were filed by the accused but consequently rejected by Hon'ble (Trial, Session and High) Courts. Finally, on their plea to Hon'ble SCI also resulted in denial of bail for the reason WLPA being a special ACT with special bail provisions under section 51A.

- ii. It is also pertinent to mention here that in recent bail cases, the Hon'ble SCI heard and issued strict bail guidelines, wherein arrest should not be made, especially under the circumstances where the maximum penalty prescribed is up to 7 years, in the famous **Arnesh Kumar Versus State of Bihar (2014)** and **Satender Antil Versus CBI (2022)**, Hon'ble SCI ruled that "bail is the rule and jail is the exception". However, the Hon'ble SCI in SLP 5955/2022 **Kamlesh Versus State of M.P** determined that Wild Life (Protection) Act is a special Act and that the evidence on record in the subject leopard poaching case of STSF (MP) is sufficient and serious, and thus dismissed the bail petition. This decision will have a significant implication on the wildlife crime cases particularly in terms of bail and can be used by investigating agencies/prosecutors for defense during bail arguments to counter ruling arised out of **Arnesh Kumar and Satender Antil**.

The bail cancellation order for SLP 5955/22, ruling under **Arnesh Kumar Vs State of Bihar 2014** and recent detailed **Satender Antil Vs CBI 2022** may be considered as ready reference.


(H.V. Girisha)
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Distribution:

1. The Director General of Police of all States / UTs
2. The chief wildlife Warden of all States / UTs

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- 1 PS to ADG(WL), Govt. of India, MoEF&CC for information please
- 2 The Regional Deputy Directors, NR, ER, WR, SR and CR to coordinate action with state authorities.