

Farman Ali vs Nct (State Of Delhi) on 20 September, 1994

Equivalent citations: 1995CRILJ3288, 56(1994)DLT1, 1994(31)DRJ15

Author: Dalveer Bhandari

Bench: Dalveer Bhandari

ORDER

1. The petitioner has approached this Court for the grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, after a similar application of the petitioner was rejected by the learned Additional Sessions Judge on 3rd June, 1964.

2. The learned Additional Sessions Judges rejected the anticipatory bail application because the petitioner is indulging in the business and smuggling of hides and skins of wild animals. He has also mentioned in the order that two skins were recovered at the spot and the application of the co-accused has also been dismissed.

3. The Duty Officer, Bara Hindu Rao, Delhi lodged a First Information Report on the basis of the secret information received by the Crime Branch of Delhi Police that a group of some persons is engaged in illegal selling of skin of wild animals and is also engaged in smuggling the same. This information was reduced into writing and the investigation was handed over to the Sub-Inspector Vinod Kapoor of Crime Branch, Sector 5, Police Head Quarter, New Delhi.

4. The Sub-Inspector Vinod Kapoor joined the Ashok kumar, Director, World Wide Fund for Nature, Lodhi Estate, Delhi. Mr. Ashok Kumar is also a consultant for Wild Life to the Govt. of India. During the course of secret investigation, the police came to know that Navil Ahmed Ansari s/o Kafil Ahmed, r/o 7049, Beri Wala Bagh, Azad Market, Delhi, Phurkan s/o Ahsan Ali, r/o 2427, Azad Building, Ballimaran, Delhi, and Jamir r/o Shah Ganj, Hauz Qazi, Delhi were the active members of this gang, which is involved in selling and smuggling of skins of wild animals.

5. The Sub-Inspector Vinod Kapoor, the Investigating Officer of the case, joined ASI Dhan Singh and ASI Balan Singh, Officers of the Crime Branch in the investigation. The investigating officer had deputed ASI Dhan Singh and Mr. Ashok Kumar to approach these accused persons as decoy customers. As a part of this instruction, Mr. Ashok Kumar and ASI Dhan Singh approached Navil Ahmed Ansari at his residence and presented themselves as the prospective customers for purchase of skins of tigers and leopards. During the course of talks regarding this deal by Mr. Ashok Kumar and ASI Dhan Singh and all accused persons, namely, Navil Ahmed Ansari, Phurkan, Farman Ali and Jamir were present. In the presence of these accused persons, Mr. Ashok Kumar and ASI Dhan Singh were told that any number of skins of tigers and leopards could be available at the rate of Rs. 25,000/- per piece of tiger skin and Rs. 15,000/- per piece of the leopard skin.

6. Navil Ahmed Ansari had stated that the interested customers will have to pay 25% of the total amount as advance and the balance amount will be taken at the time of delivery. After striking the deal with these persons, Mr. Ashok Kumar Paid an advance of Rs. 80,000/- on 20th January, 1994 to the accused persons. ASI Dhan Singh was present at the time of handing over of money and this amount was paid in the currency note of Rs. 100/- denomination each and there were in fact, 8 packets of Rs. 10,000/- each. The deal with for the purchase of 10 skins of tigers of and 10 skins of leopards, whose total value was Rs. 4 lakhs. The advance of Rs. 80,000/- was the 20% of the total payment, which was to be paid.

7. Both the decoy customers, namely, Mr. Ashok Kumar and ASI Dhan Singh reported these facts to the investigating officer of the case and also informed that these persons had assured to deliver the articles on 28th January, 1994.

8. Then a raiding party comprising of the Investigating Officer, Sub-Inspector Rajveer Yadav and Sub-Inspector K. K. Gaur, ASI Dhan Singh, ASI Balwan Singh, Head Constable Mr. Sri Krishan and Head Constable Harish Chand as well as Mr. Ashok Kumar, Director was formed. Inspector Raj Singh Chauhan and Chander of Delhi Police were also joined in this raiding party and as per the directions, Mr. Ashok Kumar and ASI Dhan Singh reached the place where these accused persons had called them. All these accused persons were waiting at Chowk Kuan, Beri Wala Bagh, Delhi. These accused persons told Mr. Ashok Kumar and ASI Dhan Singh that one skin of tiger is with Ansari and two skins of leopards are with Jamir and Farman Ali respectively. They demanded the balance money. These persons were told that the balance money would be given when the entire consignment would be delivered. However, during the course of discussion, these persons became apprehensive and tried to run away but Ansari was apprehended by ASI Dhan Singh and in the meantime the other members of the raiding party got in action and ASI Balwan Singh was able to apprehend Phurkan at the spot. However, two other accused persons namely, Jamir and the petitioner Farman Ali were able to run away from the spot after throwing the skins, which were brought in polythene bag. The articles were taken into possession as per law and the remaining formalities as required under the law were completed by the investigating agency.

9. It is submitted by the learned counsel for the respondent that the petitioner is evading arrest since 28th January, 1994 and is not available either at his residence or at the residence of any of his relatives or friends. The Investigating Officer has obtained nonbailable warrants against the petitioner.

10. Even the amount of Rs. 80,000/- which was given to these persons by the decoy customers as advance is also with these two absconding persons. The source of acquisition of skins of these wild animals is also to be traced after investigation of these accused persons. The investigation of the case has now been transferred to the Wild Life Department, Govt. of Delhi and is being investigated by the Inspector Wild Life in charge.

11. Learned counsel for the petitioner submitted that the F.I.R. was not registered on the written complaint of the authorised officer. It is also submitted that the petitioner has been falsely implicated in this case. It is also argued by the learned counsel for the petitioner that there is

violation of S. 50 of the Wild Life (Protection) Act, 1972.

12. Learned counsel appearing for the State submitted that after considerable efforts they have been able to get information that the petitioner is engaged in illegal selling and smuggling of the skins of tigers and leopards. A further probe and investigation is also imperative.

13. Counsel for the State submitted that there is no question of falsely implicating the petitioner in this case. In the instant case skins have been recovered from the accused persons and on available material prima facie it can be safely said that they are actively involved in this illegal trade and smuggling.

14. I have heard the learned counsel for the parties. The petitioner is prima facie involved in the illegal trade and smuggling of skins of wild life animals. The petitioner is facing extremely serious and grave allegations.

15. It is a matter of common knowledge that the population of tigers, leopards and other wild animals is rapidly declining in our country. It is also a matter of common knowledge that skins of tiger and leopard are in great demand in the international market, even the bones and other organs of the tigers and leopards are in great demand in the countries like China, Taiwan and Thailand.

16. The Division Bench of this court in World Wild Fund for Nature India v. Union of India has mentioned that the rapid decimation of our teeming wild life has been a matter of grave concern to the world at large and India in particular.

17. It is observed in the judgment that Government of India in 1972 launched 'Project Tiger' for the protection and growth in population of tigers and for which special reserve areas had been earmarked. Unfortunately the tiger which is the most protected endangered species of the wild animals has not been spared by poachers who for the sole purpose of trade have been frequently killing tigers in substantial numbers. The trade and business of tiger skins and bones are increasingly becoming lucrative. There is tremendous demand of tiger skins and bones in China, Taiwan, European countries and in the United States of America. In the said judgment on the basis of statistics and data collected from various sources, it is mentioned that the population of tiger has fallen from 4,330 in 1989 to 3,750 in 1993 because of large scale of poaching of tigers because of great international demand. China alone has an average demand of 300 to 500 tigers a year.

18. In the said judgment it is mentioned that 1005 species have extinguished and hundreds of them are virtually on the verge of being extinct. Unless effective steps are taken to protect our wild life, the coming generation would see some of these animals in museum, books and films only.

19. Prima facie, the petitioner is involved in a very grave and serious offence. There is no question of false implication of the petitioner in this case. Not only that the deal was finalized but in pursuance of that an advance amount of Rs. 80,000/- was given to the persons belonging to his gang. During the course of conversation when they became apprehensive, they tried to run away, two persons of the gang Ansari and Phurkan were apprehended whereas the petitioner and Jamir were able to run

away and they left the skins of the wild animals during that process.

20. Unless persons involved in illegal trade and smuggling of animals skins and organs of tigers, leopards and other animals of wild life are given deterrent punishment, we may perhaps not be successful in preserving our environment and wild life - part of our national heritage.

21. Looking to the totality and the facts and circumstances of this case, I do not think this is a fit case for the grant of anticipatory bail to the petitioner.

22. The anticipatory bail application being totally devoid of any merit is accordingly dismissed.

23. Application dismissed.