

**IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS**

Crl. Bail Application No.S-173 of 2024
(Narain & others Vs. The State)

DATE ORDER WITH SIGNATURE OF JUDGE

Date of hearing and order 28.08.2024

Mr. Kanji Mal Meghwar, advocate a/w applicants.
Mr. Dhani Bakhsh Mari, Assistant P.G a/w I.O Muhammad Usman
of PS Wilf Life Station Mithi.
Complainant Muhammad Ramzan is present in person.
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ORDER

Adnan-ul-Karim Memon, J. The applicants Narain @
Narain, Govind alias Goand Ram, and Cheeno alias Chehno are seeking
pre-arrest bail in F.I.R No.08 of 2024 for the offense under section 13-21(1),
9-1(a) of the Sindh Wild Life Protection, Preservation, Conservation and
Management Act, 2020 of PS Wild Life Station Mithi.

2. Their earlier bail plea was declined by the trial court vide order
dated 24.07.2024 on the premise that the applicants were/are nominated in
the F.I.R with the specific role of hunting of deer and birds which was/is
prohibited in a 940 Kilometers area of Tharparkar;.

3. It is contended by learned counsel for the applicants that the
applicants being innocent have been involved in this case falsely by the
complainant to satisfy his dispute with him over landed property and
such litigation is pending; the FIR has been lodged with the delay of more
than 15 days; and the offense alleged against the applicant is bailable
punishable up to 5 years not falling within the prohibitory clause of 497
Cr. PC. By contending so, he sought pre-arrest bail for the applicant on
point of further inquiry and malafide.

4. The learned Assistant P.G Sindh has pointed out that offence under
section 13-21(1), 9-1(a) of the Sindh Wild Life Protection, Preservation,
Conservation and Management Act, 2020 is bailable but punishable up to
05 years. He added that the learned trial court has not dilated upon the
subject issue and rejected the bail plea of the applicants. However, he

emphasized that hunting a rare species is a serious offense. He submitted that there is recovery from the scene points which connects the applicants.

5. I have heard the learned counsel for the parties and perused the record with their assistance.

6. The allegations against the Applicants/Accused of illegal hunting of a rare species of male deer (buck) near village Godangri. Police claim to have recovered meat cutting base (addi) and peacock feathers from the scene. It is alleged that witness statements connect the accused to the incident.

7. In the instant case, there is no denial of the fact that the FIR was registered after an inordinate delay of 15 days without explanation. The Supreme Court has repeatedly considered the delay in lodging the FIR a serious lapse unless and until it is plausibly explained. The Supreme Court has recognized that delay in lodging an FIR can be a factor in assessing the credibility of prosecution witnesses. In *Mehmood Ahmad vs. The State*, (1995 SCMR 127), a delay of two hours led to the court questioning the prosecution's motives and suggesting that the delay might have been used to manipulate the case. However, delay raises concerns about the credibility of witnesses and the integrity of the investigation. Further, while delay in lodging an FIR is a factor to consider, it should not be the sole basis for determining the guilt or innocence of an accused.

8. While bail is generally a right in bailable offenses, the trial court seems to have overlooked this without providing adequate justification. The investigating officer's statement suggests that hunting deer is illegal unless specifically permitted by the government.

9. The Supreme Court has emphasized that anticipatory bail is an exceptional measure that should be granted sparingly. It can interfere with the investigative process and prosecution. The primary purpose of anticipatory bail is to protect innocent and vulnerable individuals from potential abuse of the legal process, humiliation, and wrongful arrest. The Supreme Court's ruling in *Tariq Bashir and others vs. The State* (PLD 1995 SCMR 34), establishes that bail is a right in bailable offenses, while it is a concession or grace in non-bailable offenses, for offenses punishable

with less than 10 years imprisonment, bail is the norm and refusal is the exception.

10. In view of the above, the instant bail application is allowed, and the interim pre-arrest bail already granted to the applicants vide order dated 30.07.2024 is hereby confirmed on the same terms and conditions.

11. The learned trial court is directed to conclude the trial within one month positively.

12. The observations made in this decision are tentative and will not influence the merits of the case.

JUDGE

Faisal