

2025 LiveLaw (SC) 1020

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

VIKRAM NATH; J., SANDEEP MEHTA; J.

WRIT PETITION (CRIMINAL) NO(S). 331 OF 2025; OCTOBER 13, 2025

ROCKY ABHRAHAM *versus* UNION OF INDIA AND ORS.

Code of Criminal Procedure, 1973 - Quashing of FIR - Wildlife (Protection) Act, 1972 - Supreme Court Quashes FIR For Possession of Reindeer Horn - Notes reindeer not a protected species - Invokes Article 142 - The Supreme Court noted it was not in dispute that the reindeer is not a species covered under the category of a protected or prohibited animal as per the schedule of the Wildlife (Protection) Act, 1972 – Held, recovered article did not violate any statute and the petitioner's 14 day incarceration, Supreme Court found that allowing further prosecution would amount to gross abuse of the process of the Court - There is an imminent need to require jurisdictional agencies at international airports to sensitize their officers in the prevailing laws before taking drastic steps like detention and arrest of international travellers - Such steps should not be taken in haste and must be preceded by appropriate legal opinion and pragmatic approach - Supreme Court referred the current case and a recent incident at Jaipur International Airport involving the arbitrary seizure of a lawfully owned Rolex watch - Such ill-advised actions tend to bring disrepute to the country and breach human rights guarantees.

[Paras 15-19]

For Petitioner(s): Mr. Wills Mathews, Adv. Ms. S Soorya Gayathry, Adv. Ms. Anila Tharakan Thomas, Adv. Mr. Subham Vashishth, Adv. Mr. Rakesh Garg, Adv. Mr. Ashish Gopal Garg, Adv. Ms. Shweta Garg, AOR

For Respondent(s): Mrs. Aishwarya Bhati Ld, A.S.G. Mrs. Ruchi Kohli, Sr. Adv. Mr. Mukesh Kumar Maroria, AOR Mrs. Suhasini Sen, Adv. Ms. Sunita Sharma, Adv. Mr. T.s. Sabarish, Adv. Mr. Nithin Chowdary Pavuluri, Adv. Ms. Sunanda Shukla, Adv. Ms. Rashmi Nandakumar, AOR Ms. Yashmita Pandey, Adv.

ORDER

1. Heard.

2. This writ petition under Article 32 of the Constitution of India has been filed by the petitioner herein with the following prayers: -

“A. Issue a writ in the nature of Mandamus, or any other appropriate writ, order, or direction, directing the respondents to release the passport of the Petitioner and permit the Petitioner to travel back to Italy on or before 26.08.2025, by modifying the restrictions imposed by Annexure P-5 dated 22.01.2025 arising out of FIR No. 0036 under Sections 39/49/51 of the Wild Animal Protection Act, 1972 / Wild Life (Protection) Act, 1972, registered at P.S. IGI Airport, Delhi against the Petitioner, which was further modified by order dated 11.08.2025;

B. Pass an order to enquire into the Human Rights violations of the Petitioner during his detention in Tihar Jail;

C. Pass an order directing Respondents No. 1 to 4 to immediately take steps by making use of science and technology in executing surety and verification processes, considering the present-day requirements of individuals frequently travelling across India and abroad.”

3. The petitioner herein is a citizen of India who has been settled in Italy for the past 23 years. He was travelling from Italy to Kochi *via* Delhi for his annual vacation and to undergo knee surgery.

4. He was apprehended at Delhi Domestic Airport on 16th January, 2025 while proceeding from the International Terminal to the Domestic terminal at about 11:30 a.m. When the search of the petitioner's baggage was conducted, he was allegedly found in possession of a deer horn in violation of the provisions of the Wildlife (Protection) Act, 1972. Accordingly, the petitioner was arrested and FIR No. 36 of 2025 under Section 39, 49, and 51 of Wildlife (Protection) Act, 1972 was registered against him on the same day at 7:05 p.m. at the Indira Gandhi International Airport Police Station.

5. The petitioner was produced before the Chief Judicial Magistrate, Tis Hazari Courts, at about 2:00 p.m. on 17th January, 2025. His application for bail was dismissed by the learned Magistrate; however, the petitioner was subsequently granted bail by the Chief Judicial Magistrate, Tis Hazari Courts, on 22nd January, 2025, subject to the condition of furnishing two sureties along with a personal bond of Rs.50,000/- each, and with a further restriction prohibiting the petitioner from leaving the country. The petitioner could only make arrangements for the sureties as late as on 29th January, 2025, as his relatives had to travel from Kerala to Delhi for furnishing the bonds, which caused the delay. Because of this, the petitioner had to remain incarcerated at Tis Hazari Jail for about 14 days. The petitioner was scheduled to return to Italy on 15th February, 2025, for resuming his duties but because of the bail condition, prohibiting his travel abroad, the petitioner could not return to Italy and continues to be in India with imminent threat of losing his employment.

6. The petitioner approached the High Court of Delhi¹ by way of the Writ Petition (Criminal) No. 616 of 2025 seeking the quashing of the aforesaid FIR; release of his passport; and permission to travel back to Italy. In course of hearing of this writ petition, the Station House Officer (SHO) of the jurisdictional police station filed a status report dated 20th March, 2025 (Annexure P-11) in the High Court annexing therewith a forensic report dated 20th January, 2025 issued by the Wildlife Institute of India which reads as below: -

"The result of DNA Based Laboratory analysis of the evidence sample(s) receiver in the institute are as follows: "Biological sample marked by us as F-5363 was concluded to be Reindeer (Rangifer Tarandus)."

7. It is not in dispute that the reindeer is not a species covered under the category of a protected or prohibited animal as per the schedule of Wildlife (Protection) Act, 1972.

8. The writ petition seeking quashing filed by the petitioner is pending before the High Court without any prospect of early hearing because of the huge backlog. The petitioner filed an application before the trial Court seeking permission to go back to Italy which was allowed on 11th August, 2025 with onerous conditions that the petitioner shall furnish an FDR of Rupees Twenty Lakhs; shall not visit any country except Italy, etc. It is in these circumstances that the petitioner is before us seeking various directions enumerated in the prayer clauses above.

9. During the course of hearing of the writ petition, the learned counsel representing the petitioner vehemently and fervently urged that considering the admitted position that the article recovered, i.e., reindeer horn, at the airport from the possession of the petitioner is not covered under the provisions of the Wildlife (Protection) Act, 1972 or any other cognate statute, and as there is no prospect of the writ petition filed for quashing of the FIR No. 36 of 2025, being taken up by the High Court, this Court should feel persuaded to exercise its jurisdiction under Article 142 of the Constitution of India to quash the

¹ Hereinafter, referred to as "High Court".

patently illegal and unjust proceedings being taken against the petitioner in connection with the above FIR.

10. Under ordinary circumstances, we would have refrained from interfering in the matter leaving it open to the petitioner to approach the High Court for expediting the hearing of the pending writ petition, but considering the peculiar facts and circumstance of the case, *viz.*:

- a. That the petitioner is an NRI, settled and employed in Italy.
- b. That admittedly the article recovered from the possession of the petitioner *viz.* the reindeer horn does not violate any statute; and
- c. Pursuant to the arrest of the petitioner at the Indira Gandhi International airport on 16th January, 2025, he remained incarcerated in prison for almost 14 days.

we feel it expedient in the interest of justice to invoke our jurisdiction under Article 136 read with Article 142 of the Constitution of India to examine the prayer for quashing on merits.

11. It may be noted here that Ms. Aishwarya Bhati, learned ASG has very fairly submitted that in view of the forensic report issued by the Wildlife Institute of India, the prosecution of the petitioner in the aforesaid FIR is not warranted and in all probability the police would be filing a closure report.

12. The aforesaid factual position is also reflected from the status report dated 20th March, 2025 filed by the concerned SHO in the pending writ petition before the High Court, which makes it evident that the article recovered from the petitioner upon DNA analysis had been found to be a reindeer horn which does not infringe any provision of law pertaining to forest or wildlife in India.

13. Considering the sensitive nature of the matter and the reliefs sought in the petition *viz.* complexities in the matter of furnishing bail bonds and the pathetic conditions in prison, the National Legal Services Authority (NALSA) was also impleaded as a party in the writ petition *vide* order dated 1st September, 2025.

14. Ms. Rashmi Nandakumar, learned standing counsel for the NALSA, has filed a detailed note wherein a reference has been made to the order passed by this Hon'ble Court in SMWP(Criminal) No. 4 of 2021, whereby cognizance has already been taken to address the systemic problem of undertrial prisoners continuing to languish in custody on account of their inability to furnish sureties or to satisfy onerous bail conditions. She further submitted that the issues pertaining to bail bonds need not be adverted to in the present case, as the Court is already seized of the said issue in the aforesaid writ petition.

15. In view of the admitted factual scenario noted above, we feel that allowing further prosecution of the petitioner in this case would tantamount to gross abuse of the process of the Court.

16. Furthermore, this Court feels an imminent need to require the jurisdictional agencies concerned, handling affairs at the international airports, to sensitize their officers in the prevailing laws before taking the drastic step of detention and arrest of an international traveler. Needless to state that any such step should not be taken in haste and must be proceeded by appropriate legal opinion and with a pragmatic approach.

17. In this regard, we may gainfully refer to a recent incident that took place at the Jaipur International Airport, wherein an octogenarian passenger travelling from Dubai was

detained and his preowned Rolex watch was arbitrarily seized on the ground that it constituted luxury goods. Ultimately, the watch was found to be lawfully owned.

18. Such ill-advised actions tend to bring the reputation of the country to disrepute in the international *fora* in addition to bringing the conduct of the concerned officers in breach of the human rights guarantees.

19. Consequently, we hereby declare the arrest of the petitioner and so also the FIR No. 36 of 2025 and all proceedings sought to be taken thereunder against the petitioner to be unlawful. The same are hereby quashed. The writ petition pending before the High Court and the proceedings, if any, pending before the jurisdictional trial Court shall also stand closed.

20. The petitioner is given liberty to avail suitable remedy seeking damages before the appropriate forum, if so desired.

21. The issues pertaining to the bail bond and surety conditions and the human rights violation are left open to adjudication in SMWP(Criminal) No. 4 of 2021.

22. The writ petition is allowed accordingly.

23. Pending application(s), if any, shall stand disposed of.

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