



## PRETORIA NEWSNEWS

A calf of a rhino cow, killed by poachers for her horn. Suspected game poachers now face losing their vehicles and firearms. Picture: Sapa

# Suspected game poachers face losing cars, guns used in crime

By [Zelda Venter](#) 10h ago

Pretoria - Suspected game poachers now face losing the vehicles and firearms used in the act of shooting their prey.

The Supreme Court of Appeal has given the National Director of Public Prosecutions (NDPP) permission to launch an application to preserve these assets.

The Mpumalanga division of the high court earlier refused to hear an urgent application launched to have these assets preserved with the aim of later having them forfeited to the State.

The judge at the time said as the prosecution authority did not adhere to the rules pertaining to launching urgent court proceedings, it would not entertain the application.

To make matters worse, the magistrate who was tasked with dealing with the criminal trial of the suspected poachers had, for reasons unknown, refused to bring them to book.

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The result was that the suspected poachers would have come off scot-free from facing any consequences – either criminally or having to forfeit the firearm used to shoot the animals or the vehicle used to transport the illicit carcasses.

The NDPP, however, would have none of this and turned to the appeal court to at least be able to get its hands on the alleged culprits' property that was used in the poaching.

The court was told that in August 2019, three men were found in a timber plantation in Mpumalanga in possession of the carcasses of 11 grey duiker, four bushbuck, one mountain reedbuck and one serval cat which had recently been poached.

The carcasses and the rifle with which the animals were hunted were found in a Toyota Hilux vehicle which belonged to one of the men.

The three were arrested and charged with a number of offences in the Graskop Magistrate's Court, where they were subsequently granted bail.

The vehicle and the rifle were seized by the SAPS.

The case was, without the knowledge of the prosecution, struck from the criminal roll in January last year. No reasons were provided on the record as to why this occurred.

The magistrate afterwards, without an application brought on notice to the prosecution, and in violation of the Criminal Procedure Act, ordered the police to return the vehicle to one of the accused, the registered owner of the vehicle.

This turn of events prompted the NDPP to apply to the high court for a preservation order in terms of the Prevention of Organised Crime Act.

The judge, however, raised a concern about the delay in the bringing of the application. He struck the matter from the roll on the basis that urgency had not been established, as required by a practice directive of the court.

Judge Daisy Molefe, who wrote the judgment issued yesterday, said practice directives provided essential guidance for the daily functioning of the courts. Practice directives, however, may not derogate from legislation, the common law or rules of court that have obligatory force.

“A statute that permits the use of a procedure so as to make its enforcement effective must be adhered to. The competence of the courts to give practice directives is an important means by which the work of the courts may be carried out. However, practice directives must facilitate what a statute requires.”

She said practice directives should not place obstacles in the way of achieving the objects of a statute.

The judge added that the high court erred in not finding that by its very nature, an application for a preservation order is inherently urgent.

She said the NDPP could re-enrol the preservation application.

**Pretoria News**