

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6539 of 2015

1. Mohd. Firoj S/o. Ahmad Satar, aged about 45 years, Caste-Muslim, R/o. Keshkal District Kondagaon (C.G.)
2. Mohd. Anwar S/o. of Habib Bhai, aged about 45 years, Caste Muslim, R/o. Keshkal, District Kondagaon (C.G.)
3. Mohd. Salim S/o. Abdul Faffar, aged about 45 years, Caste- Muslim R/o. Keshkal, District Kondagaon (C.G.)
4. Sahder S/o. Laxman, aged about 21 years, caste-Gond, R/o. Keshkal, District Kondagaon (C.G.)
5. Vijay S/o. Nawal, aged about 25 years, Caste Ganda, R/o. Village Khallari, Vishrampuri, District Kondagaon (C.G.)

---- Applicants

Versus

State of Chhattisgarh Through – the Ranger Officer, South Singpur, District Dhamtari (C.G.)

---- Respondent

For Applicant : Mr. T.K. Jha, alongwith Mr. Mukesh Shrivastava, Advocates.
For Respondent : Mr. Ramakant Mishra, Dy. Advocate General.
For Objector : Mr. Akhilesh Mishra, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/12/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Forest Crime No. 7927/19 registered at Police Station- Forest Range South Singpur District Dhamtari (C.G.) for the offence punishable under Sections 26(1) of Forest Act 1927 and Section 3(1) of Damages to Public Property Act, 1984.

2. As per the prosecution case in the intervening night of 28-29/10/2015 the applicants along with other accused persons used to cut teak wood (*Sougan*) near Magarload, Dhamtari, few of the accused were apprehended on the spot as they were cutting teak wood.
3. Counsel for the applicants submit that there is no evidence is available against these applicants. He further submits though the alleged offence have been committed under the Forest Act, the Forest Officers have no right to arrest or register the case and only the Forest Department may file the complaint. He further submits that the applicants have been brutally beaten by the prosecution in which the medical treatment is being provided. He further submit that the Forest Officer has not obtained prior permission from the competent Court for registering the offence and therefore, they may be enlarged on bail.
4. State counsel as well as counsel for the Objector opposes the prayer for grant of bail and submits the applicants are cutting teak wood without obtaining prior permission from the Judicial Magistrate First Class-1, Dhamtari and the offence have been investigated under the Damages to Public Property Act for which 10 years of imprisonment is prescribed and few of the accused are still absconding and therefore, they should not be enlarged on bail.
5. Perused the case diary which shows that few of the accused are still absconding and the statement of Dev Kumar wherein Firoj Khan and Mohammad Salim have been named and submits that there are 12 persons also who fled way from the scene. Considering the statement of Dev Kumar and the matter is still investigated and few of the accused persons are still absconding

and the way of offence has been committed in a organized manner, I am not inclined to release the applicants on bail.

6. Accordingly, the bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Santosh