

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.97 of 2015

(Mohd. Abrar Ahmed Mohammad Wahed

vs.

State of Maharashtra, through I.O., A.C.F., Forest Department, Pusad)

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

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Mr. Abhay Sambre, Advocate for the Applicant.
 Mr. Prashant Gode, Advocate for the Non-Applicant.

CORAM : PRASANNA B. VARALE, J.

DATE : MAY 5, 2015.

Heard Mr. Sambre, the learned Counsel for the applicant and Mr. Gode, the learned Counsel for the non-applicant.

The applicant apprehending his arrest in a forest offence, reported at Borgaon Bit Forest, Mahagaon Forest Range, is before this Court.

On 05/09/2014, the forest officials in the process of patrolling found the illegal cutting of teak wood and nearly 33 trees were subjected to illegal cutting. On the spot, a prescription slip and a piece of bandage was found. Though in the prescription slip the name of the patient was not referred to, it reveals from the slip that the patient was found in a place Ichoda. In the process of investigation, one Sheikh Arshad Sheikh Chand, r/o Keshavpatnam, Range Ichoda,

District Adilabad was arrested. In his statement, the name of other five accused were revealed and they are (1) Sheikh Mukim Sheikh Gani, (2) Sheikh Alam Sheikh Mohammad, (3) Safdar Ali Gulam Mohammad, (4) Sheikh Hamja Sheikh Yasin and (5) Sheikh Alam Sheikh Mustafa all r/o Keshavpatnam, District Adilabad.

The learned Counsel for the applicant submits that the applicant is falsely implicated only on the statement of an accused. He further submits that the material, on which the various officials sought arrest of the present applicant, is as vague as it could be. The learned Counsel, by inviting my attention to the communication dated 12/01/2015 to the Superintendent of Police, Nizamabad, submits that a reference is made in the name of Abrar, r/o Nizamabad. He submits that the applicant, whose name is Mohammad Abrar Ahmed Mohammad Wahed, only a common word i.e. Abrar is referred to in the communication. Said applicant is the forest official seeking arrest of the present applicant. The learned Counsel submits that the applicant is working as a travel agent and he is also a driver. The learned Counsel further submits that though it is alleged that the applicant was involved in an offence of illegal cutting of trees on 04/09/2014, the applicant was admitted in the hospital on

the very day and was under medical treatment for abdominal pain. The learned Counsel, therefore, submits that the material against the applicant is too weak to curtail the liberty of the applicant.

Mr. Gode, the learned Counsel for the Forest Department vehemently opposes the application. The learned Counsel submits that it is the modus of those accused, who are involved in illegal cutting of the valuable forest trees such as teak wood, to hire some persons for cutting the trees and transporting the same from one State to another State. The learned Counsel made available the material collected by the Forest Department including the statement of other accused persons.

On perusal of the material, it reveals that at present, the only material against the applicant is the statement of another accused that too not having the positive role played but reaching on the spot with some heavy vehicles. The material placed on record by the applicant on the contrary shows that the applicant was admitted in the hospital at the relevant time having acute pain in abdomen and a certificate was also issued to the applicant that he was not in a fit condition to join his duties. There is material collected by the department also not sufficient enough to

establish the identity of the applicant.

On considering all the material above referred, in my opinion, the learned Counsel for the applicant has made a case of allowing the application. The apprehension of the State can be taken care of by imposing certain conditions of periodical attendance on the applicant.

In the result, the application is allowed. The interim protection granted by this Court by order dated 03/03/2015 is confirmed with condition that the applicant to attend Office of Assistant Conservator of Forest, Forest Department, Pusad, Mahagaon Region, District Yavatmal on every Saturday of the month from 09:00 a.m. to 12:00 p.m. and maintain a diary of his attendance duly countersigned by the A.C.F. till filing of the charge-sheet.

The application is disposed of in above terms.

JUDGE

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