

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

Criminal Application (BA) No. 517 of 2015

(Anil S/o Gulab Dadmal and anr. Vs. The State of Maharashtra through Forest Officer, Forest Department, Tah. Warora, Distt. Chandrapur)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's order
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Shri S. V. Sirpurkar, Advocate for the applicants
Shri P. A. Gode, Advocate for the non-applicant

CORAM : P. B. VARALE, J.

DATE : 13-8-2015.

Heard Shri Sirpurkar, learned counsel for the applicants and Shri Gode, learned cocounsel for the non-applicant/Forest Department.

The applicants are before this Court seeking their enlargement on bail in connection with POR No. 1483/22 registered by Forest Officer, Forest Department, Warora, Dist. Chandrapur for the offences punishable under Section 26(1)(b) of the Indian Forest Act and Section 120, 435 read with Section 34 of the Indian Penal Code. It is alleged that the applicants, by playing mischief and causing fire, destroyed certain area of the reserved forest. The document placed on record, namely, the spot panchanama shows that nearly 0.85 Hectares of area of the reserved forest land was destroyed by the fire.

The submission of learned counsel Shri Sirpurkar is that the applicant no. 1 who is earning his livelihood by doing labour work and applicant no. 2 who is working as a Clerk with one

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Advocate and both are residents of Khairgaon, Tah. Warora, District Chandrapur wanted to celebrate Hanuman Jayanti festival. He submitted that as Hanuman Jayanti was falling on 4-4-2015, the applicants and the other villagers cleaned the premises and left the place. The submission of Shri Sirpurkar is behind back of these applicants, some villagers might have set the waste on fire and this accidental fire damaged the area of the protected forest. Shri Sirpurkar further submitted that the applicants were arrested on 30-6-2015 in the evening and since then, they are behind the bars. He further submitted that the applicants being residents of Khairgaon, Tah. Warora and earning their livelihood by doing petty jobs, there cannot be any apprehension that the applicants would flee away if they are enlarged on bail.

Per contra, learned counsel Shri Gode for the non-applicant submitted that the applicants stated that the fire was accidental but the Department is of the opinion on the backdrop of the material that the mischief played by these applicants was an intentional mischief. Shri Gode submitted that the protected area of forest is damaged due to the fire and he also by inviting my attention to the photographs placed on record submitted that in the said area, Department has found wild life. The submission of Mr. Gode is that damage caused by these applicants is irreparable and on these grounds, Shri Gode opposes the application.

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On the submission of learned counsel appearing for Forest Department that 0.85 Hectares area is affected by fire, learned counsel Shri Sirpurkar for the applicants submitted that reserving the legal rights of the applicants contesting the allegations against them, the applicants to show their bonafides are ready to cooperate Forest Department by bonafide gesture of plantation of trees in the damaged area.

Apart from the other grounds, I find merit in the submissions of learned counsel for the applicants that the applicants are behind bars for more than 1½ months and earning their livelihood by doing petty jobs and as there is nothing on record to show that the applicants are having any criminal antecedents, in my opinion, the learned counsel for the applicants has made out a case. This Court also appreciates the gesture shown by the learned counsel Shri Sirpurkar that the applicants reserving their rights to contest the allegations legally are ready to plant trees in that damaged area as it is a known fact that the damage caused to the ecology and wild life cannot be compensated in terms of the money but such an attempt of planting trees would certainly help in a smaller way of preserving the ecology and most valuable natural property like trees. The criminal application is allowed.

The applicants be released on bail on furnishing their P.R. bond of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one solvent

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surety each in the like amount, on the following conditions.

a] The applicants to attend the Range Forest Officer, Warora, District Chandrapur on every first and third Sunday of each month between 9.00 a.m. to 11.00 a.m. and to maintain diary of their attendance duly countersigned by the Range Forest Officer.

b] The applicants would plant 100 trees in the damaged area. The plantation area would be specified by the Forest Department and the said exercise of plantation be done under the supervision of the Range Forest Officer, Warora, District Chandrapur.

c] The applicants shall not tamper the prosecution witnesses.

In case of breach of these conditions, the prosecution agency to take necessary steps in accordance with the provisions of law.

Hamdast granted.

JUDGE

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