

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3640 of 2017**

1. Rambharos S/o Suklal Gond, Aged About 65 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.
2. Makhan S/o Ghasiram Gond, Aged About 46 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.
3. Mangau S/o Thukesh Gond, Aged About 55 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.
4. Ajit S/o Sukalu Gond, Aged About 48 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.
5. Bhonduram S/o Chaitram Gond Aged About 42 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.
6. Bhunehswar S/o Handu Gond Aged About 20 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.
7. Sampat S/o Laxman Gond, Aged About 28 Years R/o Village Karhi, Post Umargaon, Police Station Sihawa, Tahsil Nagri, District Dhamtari, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through The Range Officer, Forest Range, Risgaon (Tiger Reserve) Udanti Sitanadi Sihawa, District Gariyaband, Chhattisgarh.

---- Respondent

For Applicant	: Shri DN Prajapati, Advocate
For Respondent/State	: Shri Anil Pandey, Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.6.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in

connection with Crime No.POR No.-5525/15 registered by investigating agency Range Officer, Forest Range Risgaon (Tiger Rserve) Udanti, Sitanadi, Sihava Distt, Dhmatari for the offence punishable under Sections 27, 29, 31, 38, 51, 52 of Wild Life Protection act 1972 and Section 3 of the Prevention of Damages to Public Property Act, 1984.

3. Learned counsel for the applicants submits that the applicants have been arrested on 26.4.2017, after investigation the said investigating agency has filed charge sheet / complaint which is pending before Judicial Magistrate First Class, Nagari, Distt. Dhmatari as Criminal Case No.57/17. Learned counsel for the applicants would submit that co-accused Gada Rai and Sukh Chand were granted bail vide order dated 16.3.2017 in M.Cr.C. No. 1337/17 by the co-ordinate Bench. Case of the present applicants is similar to those co-accused persons. The maximum punishment is upto five years, the applicants are the first offenders, they are poor tribals and as per allegation they have encroached the forest land and caused damage to the public property allegedly for a tune of Rs.64,54,929/- by destroying the dwelling of wild animals, which was estimated hypothetically for the loss of environment and the plants. The said loss if at all caused by all the accused is merely hypothetical and imaginary regarding loss of habitat of wild life. The applicants allegedly cleaned the land for their residence and agriculture. The trial may take sometime, the applicants will not commit any offence in future. As other co-accused have already been granted bail, present applicants too may be released on bail.

4. Per contra , learned counsel for the State opposes the bail application and would submit that as per the calculation there is loss of plants, loss of ecology as per the standard fixed by the authority to the tune of Rs.64,54,929/- also there was a violation of many provisions as aforementioned in the connection with the Act of 1972.

5. Perused the entire material.

6. The applicants are in custody for one month and 26 days, two other co-accused were already granted bail by the co-ordinate Bench, the offence is not punishable with capital punishment or imprisonment for life. The maximum punishment is RI for five years. The applicants are villagers though illegally encroached the land and residing the in the said tiger reserve. Calculation chart shows the loss of public property. The applicants may defend themselves in the light of the said chart on all the factual aspects. The calculation may require to prove before concerned criminal court so as to hold the applicants guilty.

7. On due consideration of the facts, I am inclined to grant one opportunity to the applicants, so that they shall not commit any similar or other offence in future and shall remain in the society.

8 Accordingly, bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- each with one solvent surety of like sum to the satisfaction of Judicial Magistrate First Class, Nagari, Dhmatari for their appearance before the said Court as and when directed.

10. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE