

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C. No. 1401 of 2021

1. Naandau Gond S/o Fagua, aged about 48 years.
2. Santram Baiga S/o Mangal, Aged About 32 Years.
3. Visambhar Uraon S/o Bahal, Aged About 25 Years.
4. Motu Biaga S/o Bhurua, Aged About 36 Years.
5. Panchu Baiga S/o Saavan, Aged About 46 Years.
6. Chandar Baiga S/o Panchu, Aged About 26 Years.
7. Choturam Baiga S/o Bhurua, Aged About 31 Years.

All are R/o -Surhi, P S & Tehsil -Lormi, District -Mungeli, Chhattisgarh.

--- Applicants

Versus

State of Chhattisgarh Through Forest Range Officer of Surhi, Achanakpur Tiger Reserve, Tehsil -Lormi, District -Mungeli, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Pallav Mishra, Advocate.
For Respondent/State	: Mr. Shrikant Kaushik, PL.

(Proceedings through video conferencing)

Hon'ble Shri Parth Prateem Sahu, J

Order on Board

13/07/2021

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicants, who have been arrested in connection with Crime No (POR No.15734/03) registered at Police Station – Forest Range Officer -Surhi, Achanakmar Tiger Reserve, Lormi, (C.G), for the offence punishable under Sections 2, 9, 27, 29, 31, 32, 44, 49, 50, 52 & 57 of Wildlife Protection Act, 1972.
2. Case of the prosecution is that on 31.08.2021, based on the secret information, staff of Achanakmar Tiger Reserve made raid in forest area and found that one 'chital' was trapped and killed by means of Axe. They recovered trapping materials, bows, arrows, cooked meat and other articles used for cooking meat from house of present applicants. The applicants have distributed meat amongst themselves. The articles of cooking meat and wood have been recovered from applicant No. No.5 Panchu Biaga and other articles have been recovered from applicant

No.6 Chandar Baiga. On the basis of said recoveries, instant crime was registered against applicants and they were arrested.

3. Learned counsel for the applicants submits that absolutely false and frivolous allegations have been levelled against present applicants. As per allegation of forest official, they have seized trapping materials, bows, arrows and other articles used for cooking meat from applicants' possession. Cooked meat was sent for Forensic Test (FSL) as per charge-sheet. But the report of FSL has not been received till date, hence, it cannot be said that cooked meat, which was said to be recovered from the possession of applicants, is of animal shown in Schedule. Cooked meat is of a goat, hence, no offence is made out against the applicants under the Forest Act. He further submits that applicants are resident of forest village -Surhi and belongs to Baiga community, therefore, they are having in their home Bows and Arrows. Utensils seized from applicants' house is of general utensils which are available in all houses for the purpose of cooking food. Applicants were arrested on 04.09.2020 & 11.9.2020, hence, they may be released on bail.
4. Learned counsel for the State opposes the submissions made by learned counsel for the applicants and submits that there are serious allegations against the applicants that they trapped and killed 'chital' and thereafter distributed meat amongst themselves. Meat was recovered from possession of applicant Nos.5, 6 & 7. On putting a specific query to learned State Counsel with regard to FSL report and any criminal antecedents of applicants, he replied that even as per enquiry made by him today, FSL report is not received till date. It is further pointed out that applicants No.4, 6 & 7 are involved in another offences of similar nature, which is pending before Court of Magistrate in Case No.11/2020. Hence,

applicants are not entitled for grant of bail.

5. Heard learned counsel for the parties.
 6. Allegations against applicants are that they have killed 'chital' and distributed meat among themselves, allegedly cooked meat was recovered from possession of some applicants, sent for FSL, but admittedly, FSL report has not been received. It is not proved till now whether recovered meat is of wild life, specified in entry no. 5 under Schedule III of the Wildlife (Protection) Act, 1972 or not.
 7. Considering the entire facts and circumstances of the case, nature of allegations levelled against applicants, offence alleged against applicants are triable by Magistrate, without commenting anything on merits of the case, I am inclined to allow this bail application.
 8. Accordingly, bail application is allowed. It is directed that applicants shall be released on regular bail, on their furnishing personal bond in sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the Court on the conditions that -
 - a) Applicants shall appear as and when directed by the investigating agency during the course of investigation.
 - b) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) They shall not, in any manner, tamper with the prosecution witnesses.
 - c) If they are found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.
- Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
 Judge

Jamal/-