

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8178 of 2021

1. Siyaram Yadav S/o Babaram Yadav Aged About 42 Years R/o Village Kothar, Police Station Pipariya, District Kabirdham Chhattisgarh
2. Lakhan Pardhi S/o Tulsi Pardhi Aged About 45 Years R/o Village Damapur, Police Station Kunda, District Kabirdham Chhattisgarh
3. Mangatu Pardhi S/o Patanga Pardhi Aged About 52 Years R/o Village Laghaan Pandariya, Police Station Pandariya, District Kabirdham Chhattisgarh.

---- Applicants (In jail)

Versus

- State Of Chhattisgarh Through Forest Range Officer, Forest Range Kawardha, District Kabirdham Chhattisgarh

---- Respondent

For Applicants	: Shri Dharmesh Shrivastava, Advocate
For Respondent/State	: Shri Vaibhav Singh, PL

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

07.12.2021

1. Applicants have preferred this application under Section 439 of CrPC for grant of regular bail as they were arrested in connection with Forest Crime (POR) No.13750 of 2019 registered at Police Station- Forest Range Officer, Forest Range Kawardha, District-Kabirdham, Chhattisgarh for the offence punishable under Sections 2(16)(35)(37), 9, 35(6)(c), 39(1)(a)(b)(d), 39(3)(a)(c), 50, 51, 52 of the Wild Life Protection Act, 1972.

2. Case of the prosecution, in brief, is that, based on complaint received by Forest Department that there was gun firing at village Kothar, employees of Forest Department went on the spot and during enquiry, they revealed that one Common Langur has been buried behind the house of Applicant-1, its body was exhumed and sent for postmortem. During the course of enquiry, employees of Forest Department also recovered

Bharmar Banduk from possession of Applicant-3 and also cartridges. Based on recovery of dead-body of Common Langur, Bharmar Banduk and its cartridges from possession of applicant-3, they were arrested on 25.09.2021.

3. Shri Dharmesh Shrivastava, learned counsel for the applicants submits that applicants have not committed any offence. When applicant-1 found Common Langur lying dead behind his house, he along with other villagers thought it proper to bury it and that's how Common Langur was found buried behind his house. There is no mention that Common Langur died due to gun shot or any other injury. There is no offence registered against applicants under Arms Act. Applicants are in jail since 25.09.2021, offences are triable by JMFC, hence they may be enlarged on regular bail.

4. Shri Vaibhav Singh, learned State counsel opposing the submissions of learned counsel for the applicants, submits that based on complaint received by the Forest Department, Officers of that Department went to village Kothar and during course of enquiry, got information that one Common Langur was buried behind house of Applicant-1. Its body was exhumed and sent for postmortem. One gun along with two cartridges was also recovered from Applicant-3. Hence there is *prima facie* involvement of applicants in commission of crime as alleged against them. However, upon putting specific query with regard to cause of death of Common Langur, he submits that in postmortem report, there is no mention of cause of death.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations against applicants, facts and circumstances of the case; material available in case diary; further, there is no opinion of doctor who conducted post-mortem of Common Langur that it died on account of any gun shot or any other injury caused by any human being; there is no other offence registered except under Wild Life Protection Act, 1992; offence to be triable by the Judicial Magistrate First Class and trial may take some time; without commenting anything on merits of the case, I am inclined to enlarge the applicants on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicants shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) each with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

- a) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicants shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd-
(Parth Prateem Sahu)
JUDGE