

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 8681 of 2021

1. Dashrath S/o Aged About 32 Years.

2. Sunwa, Aged About 30 Years.

Both are S/o Somaru Korva R/o Village - Adhaura, Police Station-Balrampur, District - Balrampur- Ramanujganj Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through The Forest Range Officer, Balrampur, District - Balrampur-Ramanujganj Chhattisgarh.

---- Non-Applicant

For Applicants	:	Mr. Sachin Nidhi, Mr. Hariom Rai, Advocates
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For Non Applicant	:	Shri K. K. Singh, G. A.
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Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

21.12.2021

1. The applicants have preferred the first bail application under Section 439 of CrPC for grant of regular bail as they are in jail since 24.09.2021 in connection with Forest Crime No.13596/2016 registered at Police Station- The Forest Range Officer, Balrampur, District- Balrampur-Ramanujganj (C.G.) for the offence punishable under Sections 33(1)(क)(ग)(च)(ज) of Indian Forest Act, 17(क), 51(1) of Wild Life Protection Act and 3(1)(क) of the Prevention of damage to public property Act.
2. The case of prosecution in brief, is that, on 24.09.2021, the present applicants have entered into the forest area with intention of illegal occupying the forest land of Balrampur Zone, were cut down total 64 pieces of Sal, Saja, Tendu, Haldu, Awla, Tinsa and other species of trees. On the basis of aforesaid information offence Under Section 33(1)(क)(ग)(च)(ज) of Indian Forest Act, 17(क), 51(1) of Wild Life Protection Act and 3(1)(क) of the Prevention of damage to public property Act have been registered against the applicants.

3. Learned counsel for the applicant would submit that registration of crime by the Forest Officer without authority as per the law laid down by the Co-ordinate bench of this Court as well as judgment passed by High Court of Madhya Pradesh in case of Anand Kumar Goenka Vs. State of M.P. and others in Criminal Revision No.604/97 reported in 2001(3)MPLJ272, he would further submit that the remedy available to the Forest Officer for filing a complaint under Section 200 of CrPC and they can not register the offence themselves.
4. This Court has called the S.D.O., Bilaspur to assist this Court. In pursuance of direction the S.D.O. is present before this Court along with State counsel and would submit that as per Section 64 of Indian Forest Act, 1927, any Forest-Officer or Police Officer may, without orders from the Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards, therefore, proceeding initiated by Forest Department against applicants is justified and he would further refer Section 72 of the Indian Forest Act, 1927, as per Section 72, the State Government may invest any Forest-Officer with all or of the following powers, they are as under:-
 - (a) Power to enter upon any land and to survey, demarcate and make a map of the same;
 - (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;
 - (c) power to issue a search-warrant under the Code of Criminal procedure, 1898(5 of 1898)*; and
 - (d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

Section 72(2) further provides that evidence recorded under Section 72 shall be admissible in subsequent trial before a Magistrate. He would also refer Para 77(A)(1) of the Forest Manual and would submit that the State Government has authorized Range Forest-Officer and DFO to investigate the Forest offence for certain procedure as provided in Para 77(A)(4) of Forest Manual. Therefore, the learned Government

Advocate would submit that the proceedings initiated by them is legal and justified and they have rightly been arrested for commission of offence under the Forest Act.

5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, and the fact that applicant is in jail since 24.09.2021, more than 3 months has already been lapsed. The Section 33(1)(क)(ग)(च)(ज) of Indian Forest Act, provides that a minimum sentence for the offence shall be one year, Section 17(क), 51(1) of Wild Life Protection Act provides that a minimum sentence for the offence shall be 3 years and Section 3(1) (क) of the Prevention of damage to public property Act provides that a minimum sentence for the offence shall be one year. Considering the fact that trial may take some time, therefore, without commenting anything on merits of the case, I am of the opinion that it is a fit case to enlarge the applicants on bail.
7. Accordingly, the bail application filed by applicants is allowed and it is directed that applicants shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties of Rs.25,000/-each for the like amount to the satisfaction of the concerned trial Court. They shall appear before the trial Court on each and every date given by the said trial Court, till disposal of the trial.
8. It is made clear that applicants shall not involve himself in any offence of similar nature in future, otherwise bail granted to them shall be liable to be cancelled without further reference to the bench.
9. Certified copy as per rules.

Sd/-

(Narendra Kumar Vyas)
Judge