

**(2014) 03 JH CK 0080**  
**In the Jharkhand High Court**  
**Case No : A.B.A. No. 4488 of 2013**

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|--------------------------------|----|------------|
| Sukhdeo Singh and Munshi Singh | Vs | APPELLANT  |
| The State of Jharkhand         |    | RESPONDENT |

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**Date of Decision :** 20-03-2014

**Acts Referred:**

Forest Act, 1927 — Section 29 30 30(a & c) 30(a) 30(b)

**Citation :** (2014) 03 JH CK 0080

**Hon'ble Judges :** Prashant Kumar, J

**Bench :** Single Bench

**Advocate :** Deepak Kumar, for the Appellant; Lily Sahay , Assistant Public Prosecutor, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Prashant Kumar, J.—Anticipatory bail application filed by Sukhdeo Singh and Munshi Singh, in connection with G. Case No. 284 of 2009, pending in the court of Civil Judge (Junior Division)-VI, Koderma, is moved by Sri Deepak Kumar learned counsel for the petitioners and opposed by Smt. Lily Sahay learned Additional P.P. for the State. It is alleged that the petitioners had encroached forest land and constructed a house over it. Accordingly petitioner arraigned u/s 33 of the Indian Forest Act.

2. It is submitted by Sri Deepak Kumar learned counsel for the petitioners, that the land in question is not a forest land because there is no notification u/s 30 of the Indian Forest Act. Thus, he submits that no offence u/s 33 of the Indian Forest Act made out.

3. On the other hand, Smt. Lily Sahay learned Additional P.P. submits that the land in question is a protected forest, for that a notification issued u/s 29 of the Indian Forest Act as back as in the year 1953. She further submits that thereafter another notification issued by the State Government on 23rd May, 1967 u/s 30 of the Indian Forest Act. According to the aforesaid notification,

certain trees grown on the forest area had been reserved as per Section 30(a) of the Indian Forest Act. By the same notification according to provision contained in Section 30(c) of the Indian Forest Act, general public were prohibited from doing certain acts including construction of any building over the land. Accordingly, she submits that the petitioners have committed an offence u/s 33 of the Indian Forest Act.

4. In reply Sri Deepak Kumar submits that aforesaid notification dated 23rd May 1967 had lost its force due to efflux of time, because a notification issued u/s 30 of the Indian Forest Act remain enforceable only for 30 years. Aforesaid submission of Sri Deepak Kumar is not worth acceptable.

5. Section 30 of the Indian Forest Act runs as follows:-

30. Power to issue notification reserving trees, etc.-The State Government may by notification in the Official Gazette-

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification;

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such terms, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the right suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

6. From bare perusal of Section 30 of the Indian Forest Act, it appears that the State Government has power to issue notification for three purposes.

(i) for declaring any tree or class of trees in a protected forest to be reserved from the date of notification;

(ii) the State Government can declare that any portion of such protected forest shall be closed for private person for such terms not exceeding thirty years and rights of private person over the said forest area will be suspended;

(iii) the State Government prohibits any person from quarrying stone, burning of lime or charcoal or collection or subjection of any manufacturing process or removal of any forest produce in any such forest, and the breaking up or clearing the forest for cultivation or building.

7. Thus, from the aforesaid, it is clear that the maximum life of the notification has been fixed only if the same has been issued u/s 30(b) of the Indian Forest

Act. Maximum life of the notification has not been fixed if the same has been issued for the purpose mentioned in Section 30(a) & (c). From perusal of notification of the State Government, it is clear that the same was issued for the purposes mentioned u/s 30(a & c). In that view of the matter, I conclude that the aforesaid notification is still valid.

8. In view of the aforesaid facts and circumstances, I find that prima facie offence u/s 33 of the Indian Forest Act is made out against the petitioners. Hence, I am not inclined to enlarge the petitioners on anticipatory bail. Accordingly, this anticipatory bail application of petitioners rejected.