

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 1636 OF 2015

KHALIL SHAIKH S/O DADAMIYA SHAIKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for ApplicantS : Mr. Saeed S. Shaikh
APP for Respondent : Mrs.V.A.Shinde.
...

CORAM : **V. M. DESHPANDE, J.**
DATE : 08th April, 2015.

Per Court:

1 The learned counsel for the Applicants argued the matter for quite considerable time. When this Court shows disinclination to grant relief in favour of the Applicants, the learned counsel for the Applicants submits that he wish to withdraw the present application. The said prayer is rejected since the offence is not committed against any individual, but it is committed against the nature and the mankind. The Court cannot be oblivious of the happening around the society. It is a high time that the sand mafia has to be dealt with iron hand. Hence, the request for withdrawal is rejected.

2 The Applicants, it appears, have avoided their arrest from 2013 and approached this Court in the year 2015 since they are apprehending their

arrest in connection with Crime No.I-176 of 2013, registered at Gangapur Police Station, District Aurangabad, for the offences punishable under Sections 379, 120(B), 420, 464, 468 and 471 read with Section 34 of the Indian Penal Code and Sections 21(1)(2)(3)(4) and (5) of the Minerals and Mines Act.

3 I have Heard Mr.Saeed S. Shaikh, learned counsel for the Applicants and Mrs.V.A.Shinde, learned APP for the State, in depth.

4 It is not in dispute that the present Applicant No.1 is driver of truck bearing No.MH-12-CH-9285 and Applicant No.2 is the owner of the said truck. The first information report shows that on 4th September, 2013, the alert villagers of Mhaisobawadi intercepted about 18 trucks, which were carrying and transporting sand illegally, which was excavated from the river. It was found in the truck owned by Applicant No.2 and driven by Applicant No.1 was having excessive sand. The authorization and transport passes were shown to the Tahsildar. The Tahsildar sent those authorization and passes to the Mining Officer. The Mining Officer has given a report to the Tahsildar on 7th September, 2013, by which it was pointed out that the passes and the authorization, which were handed over by the Applicants to the Revenue Officer were bogus and fabricated one and they were not genuine passes. Thus, it is clear on the basis of fabricated and bogus authorization and passes that the excavation of

sand was going on and such sand was being transported.

5 Further, though the offence is registered in the year 2013, for the first time on 11th February, 2015, the present Applicants filed an application for bail before the learned Additional Sessions Judge, at Vaijapur bearing Criminal Application No.40 of 2015. That shows the influence of the present Applicants exerting at the State machinery. It is really unfortunate that the State machinery including the Investigating Officers are not serious to book the perpetrators of the crime, which is committed against the nature and mankind.

6 It is thus clear the Applicants were found to be in possession of the fabricated and bogus documents and those documents were used by them as genuine document to lift and excavate the sand. In that view of the matter, this Court is of the considered opinion that custodial presence of the present Applicants is absolutely essential.

7 Hence, the criminal application is rejected.

8 It is expected from the Investigating Officer that the Investigating Officer will take necessary steps to complete the further investigation.

[V. M. DESHPANDE, J.]