

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE – CRIMINAL  
ANTICIPATORY BAIL APPLICATION NO.156 OF 2015

Vasant Shantaram Dalvi                      .... Applicant  
Vs.  
The State of Maharashtra                      .... Respondent

Mr. S.P. Kadam i/b Mr. Hemant Sapkale for  
the Applicant.  
Mr. S.R. Chitnis, Special PP, for the  
Forest Department.  
Ms Rutuja Ambekar, APP, for the Respondent-  
State.

**CORAM:** REVATI MOHITE DERE, J.

**DATED:** APRIL 23, 2015

**P.C:**

1.            Heard the learned counsel for the  
applicant and the learned Special PP for the  
Forest Department.

2.            By this application, the applicant  
seeks pre-arrest bail in connection with C.R.  
No.18/E/2014, registered with the Range Forest

Officer, Khadavli for the alleged offence punishable under Section 33(c) of the Indian Forest Act.

3. The incident in question is alleged to have taken place on 12-12-2014, at about 12 noon. It is alleged by the first informant - Mukesh Sonawane that when he along with one B.D. Pawar were on patrolling duty in Khadavli area, they noticed an illegal construction going on in the forest land. It is alleged by the first informant, that when they went near the workers and questioned them about the illegal construction, the workers replied that the structure belonged to the present applicant. The guards present there started demolishing the said structure. It is alleged that at the time of the demolition, the applicant and two unknown persons came there and started abusing and assaulting them with

fist and kick blows. Pursuant to the aforesaid incident, two separate C.Rs. came to be registered; one is the aforesaid C.R., i.e. C.R.No.18/E/2014, registered under Section 33(c) of the Indian Forest Act and another C.R. being C.R. No.328 of 2014, registered with the Kalyan Taluka Police Station, alleging offences punishable under Sections 353, 341, 332, 504 and 506 r/w Section 34 of the IPC.

4. The learned counsel for the applicant contended that land 77A is part of a larger Gat number being Survey No.172 in Village Gurawali. He submits that there is a dispute whether the land 77A is a private land, belonging to the tribals or is protected land. He relied on certain extracts and Notifications in support thereof. The said submission is vehemently opposed by the learned Special PP, who pointed out that the 7x12 extract clearly shows that

land 77A is a forest land and hence, the provisions of the Indian Forest Act will apply. He too relied on the 7x12 extract to show that Survey No.77A is forest land.

5. The learned counsel for the applicant further submits that although the offence punishable under Section 33 of the Indian Forest Act is non-bailable, the same is punishable with imprisonment for six months, or fine, or both. He submits that custody of the applicant is not required as the illegal structure has already been demolished and there is nothing to be recovered from the applicant.

6. The learned Special PP submits that considering the fact that the land in question is a forest land, the applicant should not have encroached upon the said land and carried out any construction thereon.

7. It is not disputed that the structure allegedly built by the applicant has been demolished by the forest guards. The offence alleged under Section 33(c) of the Indian Forest Act is punishable with imprisonment for a period of six months, or fine, or both.

8. Prima facie, it appears that Survey No.77A is Forest Land. However, be that as it may, considering the nature of the allegations, i.e. essentially carrying out illegal construction on forest land, which was immediately demolished, and the punishment it entails, the custody of the applicant is not required. Hence, the following order is passed:

**ORDER**

(i) In the event of his arrest, in C.R. No.18/E/2014, registered with the Range Forest Officer, Khadavli, the applicant be released on bail on furnishing P.R. Bond in the sum of

Rs.50,000/- with one or two local sureties in the like amount.

(ii) The applicant shall attend the Office of the Range Forest Officer, Kalyan, twice a week, i.e. on Wednesdays and Fridays between 12:00 noon to 2:00 p.m. for a period of three weeks from today.

(iii) The applicant shall not influence or intimidate any person concerned with the case.

9. The application is allowed in the aforesaid terms and accordingly stands disposed of.

10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)