

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 258 OF 2015

Shri Santosh Ramchandra Bhoir	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. A.P.Mundargi, Senior Advocate i/b/ Ms. Swapna Kode, for the applicant.

Ms. A.T.Jhaveri, APP, for the State

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 20th July, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C. then applicant herein is apprehending his arrest in Crime No.637 of 2014 registered at Virar Police Station for the offence punishable under Section 379 read with Sec. 34 of IPC.

2. It is the case of the prosecution that PIL No.27 of 2011 was filed by one Suresh Patil where there were allegations of illegal excavation of sand. This Court had entertained the said PIL. The present applicant had suo motu appeared in the said PIL. The present applicant happens to be the power of attorney holder of 32 people who had paid the royalties to lift the

sand which was already excavated. On 19.11.2014, the Talathi of Sajja-Palhar lodged a report at the police station alleging therein that on 19.11.2014, in the morning at about 11.10 a.m. he had been along with the SDPO and other officers of the Revenue Department to Vaitrana Reti Bunder. They were taking inspection in respect of illegal excavated sand. They found two trucks bearing No. MH-04-DS-3815 and Truck No. S-04-FU-7476 filled with sand and they were leaving the spot. Upon enquiry with the driver of the said truck, no valid documents were found with the drivers permitting them to transport the sand which was excavated and therefore he lodged a report alleging therein that there was theft of the said sand. The present applicant admits that he had hired the said trucks for the purpose of transporting the sand on behalf of 32 persons who had already paid the royalty. At the relevant date the passes were not available with the truck drivers. In the Public Interest Litigation, the individuals who had paid royalty for lifting the sand had sue motu intervened and had prayed to this Hon'ble Court that since they had already paid the royalty for their respective quantum of sand to be lifted, they should be permitted to lift the sand. The said permission was granted by the Hon'ble Division Bench (Coram: Mohit S. Shah, C.J. & A.K.Menon, J.). By an order dated 15th June, 2015, the Hon'ble Division Bench had directed the applicant to submit

and surrender unutilised passes given in favour of the persons who had paid royalty.

3. The learned Senior Counsel has placed on record the receipt showing that the applicant has surrendered the said unutilised passes before the Sub-Divisional Officer at Vasai. The Civil Application filed by the present applicant and others has been disposed of by the Hon'ble Division Bench vide order dated 15.6.2015. In the facts and circumstances of this case, it is clear that only because the Talathi had detected two trucks which were not carrying passes hired by the present applicant. The FIR is lodged and offence is registered. However, the record shows that the applicant had passes for the said trucks also. In view of this, custodial interrogation would not be imperative. The applicant deserves grant of pre-arrest bail.

4. It is made clear that the observations made hereinabove are restricted to the application under Section 438 of Cr.P.C. and shall not be considered for the purpose of quashing, or discharge application or at the time of trial.

ORDER

(i) The application is allowed. In the event of arrest, the applicant

be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the concerned police station as and when called. And co-operate with the investigating agency to the best of his capacity.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)