

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.739 OF 2015**

Kunal @ Banti Kishor Pardeshi
Versus
State of Maharashtra

....Applicant.

...Respondent.

Mr. Pravartak Pathak, advocate for the Applicant.
Mrs. R.V.Newton, APP for the respondent-State.

CORAM : MRS. MRIDULA BHATKAR, J.

DATED : June 9, 2015.

P.C.:

Application is moved for anticipatory bail as the applicant-accused apprehends arrest in C.R.No.I-42 of 2015 registered by Yevla, Nashik Police station on 17.3.2015 for the offences punishable under Sections 353, 392, 379, 341, 177, 504 and 506 of the IPC at the instance of one Dnyaneshwar Ramchandra Dabale, who is working as a driver on the vehicle of SDO, Yevla. As per the case of the prosecution on 17.3.2015, Sub Divisional Officer and Talathi both found one dumper coming with full of sand from Shiv Road. SDO asked driver of the dumper to stop. SDO inquired driver of the dumper as to whom the dumper belonged and asked to produce the licence. Driver answered that he was

not aware of the licence. However, he called the owner of the dumper. Son of the owner, who is applicant-accused arrived there in his Toyota car. He parked his vehicle in front of the government vehicle and prohibited SDO and Talathi to go further. He abused SDO and also challenged that how she performed her official duty. He challenged her authority and also threatened her of her life. In spite of the resistance, he ordered his driver to take away the dumper. Hence, the offence was registered.

2 The learned counsel for the applicant-accused has submitted that it is the false case against the applicant-accused. Owner of the dumper at the relevant time was holding licence of the sand excavation. His father has earlier given complaint under the Anti Corruption Act against one police officer and, therefore, applicant-accused is falsely implicated in this case. He further submitted that if the offence is committed as per the case of the prosecution in the afternoon at 12 noon on 17.3.2015 then why there is delay in lodging FIR at 9 pm. He further pointed out that on the same day there is another offence registered against him by the circle officer at C.R.No.I-40 of 2015 and, therefore, he submits that it is not possible for the applicant-accused to commit two offences at the same time.

3 I.O. is not present. The learned prosecutor opposed the application. She submits that the offence is committed against the public servant under Section 353, which is non-bailable.

4 It is true that in this case no weapon is used or there is no actual physical assault. However, the offence is committed obstructing both the public servants from performing their duties. Under section 353 though there is two years' punishment, it is made non-bailable as it is against public servants deterring them from discharging their duties and, therefore, I am not inclined to grant pre-arrest bail in the present case. There may be a case lodged by the father of the applicant-accused under the Prevention of Corruption Act against a police officer. However, the complainant in the present case is not the police officer. Complaint is given by driver of SDO. Moreover, delay of few hours in lodging FIR by public servant can not be considered at this stage as flaw or the circumstance in favour of the applicant-accused. I have perused the second FIR. It is given by one Kailash Ramnath Chaudhary, who is Circle Officer. After going through the contents of the said FIR, prima-facie, it appears that the applicant-accused has committed another offence in the course of same transaction and, therefore, two FIRs were registered by two different persons. As per the instructions, there is distance of

approximately 40 kms between the places of two offences and there is difference of time in the commission of both the offences .

5 Application stands rejected.

(MRS.MRIDULA BHATKAR, J.)