

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1158 OF 2015

Purshottam Vitthal Bhagat .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.M.K.Kocharekar i/b. Rajeev Sawant &
Associates, Advocate, for the Applicant
Mrs.P.P.Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 14.09.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks pre-arrest bail in connection with C.R.No.
66 of 2015 registered with the Sewree Police
Station, Mumbai, for the alleged offences
punishable under Sections 379, 109 r/w.34 of
the Indian Penal Code, 1870, under Section 21(C)
of the Mines And Minerals Act, Sections 78 & 79

of the Maharashtra Gaon Khanij Khadak Act, Sections 15 & 19 of the Environment Protection Act, 1986 and under Section 48 of the Maharashtra Land Revenue Code. It appears that subsequently, Sections 467 & 471 r/w.34 of the Indian Penal Code came to be added.

3. The complainant is one Sandeep Baban Chakor. He has alleged that one barge was intercepted carrying 150 brass of sand, which was in excess of the permissible limits. The permissible limit being only 50 brass of sand. According to the complainant, two persons came to be arrested along with the barge, containing stolen sand. During interrogation, the said two persons, are alleged to have disclosed, that the owner of the barge, was one Mohammed Mustafa Mohd. Juber and that the said sand was loaded on the instructions of Mohammed Mustafa and Saroj Chandiwal from Raigad and was to be unloaded at

Sewree.

4. Learned counsel for the applicant submits that the applicant has not been named in the FIR. According to him, he had given an amount of Rs.9,00,000/- to one Vijay Patil to bid in the auction for sale of sand which had taken place in the Collector's office. He submitted that the applicant had no role to play in the transportation of the sand which was seized or the alleged fabrication of the documents.

5. Learned APP does not dispute the fact that the present applicant is not responsible for the alleged affirmation or fabrication of documents. She also does not dispute that the applicant was not present at the time, when barge was loaded or intercepted.

6. Perused the papers. Prima facie, it appears that the applicant is neither the owner of the barge nor the person responsible for the transportation of the sand from Raigad to Reti Bunder; neither is he the person, who is alleged to have affirmed and fabricated the documents. Considering the aforesaid, the Application is allowed and the the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

(i) In the event of the 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 attend the Sewree Police Station, Mumbai as & when called for by the investigating officer till the filing of the charge-sheet;

(iii) The applicant shall not tamper or

attempt to influence the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.