

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

Criminal Application (ABA) No. 363 of 2015

[Samadhan s/o Bhikaji Ingle and two others Vs. State of Maharashtra through
D.G.P. & P.P. Buldana for P.S. Buldana(City)]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri Abhay Sambre, Advocate for applicants
Smt. K. R. Deshpande, APP for the State/non-applicant

CORAM : P. B. VARALE, J.

DATE : 10-8-2015.

Heard Shri Sambre, learned counsel for the applicants.

The applicants are before this Court seeking their pre-arrest bail in Crime No. 164/2015 registered at Police Station, Buldana(City), District Buldana for the offences punishable under Section 379 read with Section 34 of the Indian Penal Code.

The sum and substance of the report lodged against these applicants is that the applicants were found excavating the minerals in vehicles namely tractor and tipper trolley. Learned counsel for the applicants by inviting my attention to the documents placed on record namely, the license/permit issued by Tahsildar, Buldana submits that one Ambadas Sonune was permitted to excavate the minerals under the said permit. The said Ambadas also has deposited the due amount in the Government Treasury. Shri Sambre submits that in the permit, there is a reference of vehicles also. Then by inviting

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my attention to the document placed on record, namely, an affidavit sworn by Shri Ambadas Sonune submits that the applicants are the employee of Shri Ambadas Sonune who are acting under the directions of Ambadas. It is the submission of learned counsel for the applicants that only on assumption and presumptions, it is alleged that applicants were excavating the minerals whereas the material in the form of permit clearly show that Shri Ambadas Sonune was the person in which favour the permit was granted and in the said vehicles which were referred to in the permit, transportation of the sand were carried. Learned counsel for the applicants submits that as the applicants are labourers/employees of Ambadas and they are residents of Village Kherdi, Pangri Tekale and Talgaon in Tahsil and District Buldana, there cannot be any apprehension that they would flee away. He further submits that in the report, there is nothing to suggest that there was any breach of the conditions of the permit i.e. excavation beyond the permitted limit and only on the allegation that the material was found in the vehicles, the applicants are made accused. Shri Sambre submits that applicants are ready to cooperate with the investigating agency and attend the Police Station as and when they are called upon.

Learned Additional Public Prosecutor opposed the application.

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On perusal of the material placed on record, in my opinion, learned counsel for the applicants has made out a case. The apprehension of the State can be taken care of by imposing conditions on the applicants. In the result, the criminal application is allowed.

The interim order passed by this Court on July 27, 2015 is confirmed on the condition that the applicants to attend the Police Station, Buldana(City), District Buldana every Sunday between 9.00 a.m. to 12.00 noon till commencement of the trial and as and when called by the Investigating Officer.

JUDGE

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