

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

Criminal Application No. 5195 of 2016

District : Jalna

Dattu @ Dattatrya s/o. Santoshrao
Pandit,
Age : 38 years,
Occupation : Agriculture,
R/o. Delegavhan,
Taluka : Jafrabad,
District : Jalna.

.. Applicant.

versus

The State of Maharashtra,
Through Police Station,
Tembhurni,
Taluka : Jafrabad,
District : Jalna.

.. Respondent.

.....

*Mr. S.J. Salunke, Advocate, holding for
Mr. A.R. Devakate, Advocate, for the applicant.*

*Mr. S.M. Ganachari, Addl. Public Prosecutor,
for the respondent.*

.....

CORAM : A.M. BADAR, J.

DATE : 27TH SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 82/2016
registered with Police Station, Tembhorni, Taluka
Jafrabad, District Jalna, for the offence punishable

under Section 379 of the Indian Penal Code and under Sections 48(7) & 48(8) of the Maharashtra Land Revenue Code, 1966 [For short, "MLR Code"], by this application, is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. By drawing my attention to the provisions of Section 48 of the MLR Code, the learned Counsel for the applicant submitted that the applicant is ready and willing to deposit five times penalty as prescribed by the MLR Code for illegal extraction of the minor mineral. The learned Counsel further argued that attending circumstances as reflected from the FIR shows that the applicant was not stealing the minor mineral. On the contrary, he was entrusted with the work of digging the soil for the Water Supply Scheme to be implemented by the Grampanchayat of the village.

3. The learned Counsel for the applicant further argued that the applicant is falsely implicated in the crime in question because he is son of Ex-Sarpanch and the ruling party wanted to implicate him falsely in the crime in question.

4. The learned Addl. Public Prosecutor opposed the application.

5. Perused the FIR as well as papers of

investigation. The FIR is lodged by the Circle Officer of the Revenue Department who cannot be said to be a person inimical with the applicant. The FIR itself reveals that on the basis of information received, squad of Revenue Department went to the spot and found extraction of minor mineral by the JCB machine of the present applicant. Upon being enquired, the applicant informed the revenue Officers that the work of digging is going on for Water Supply Scheme of the Grampanchayat. Matter was further enquired with the Grampanchayat. The Grampanchayat informed that the work of Water Supply Scheme was not entrusted to the applicant nor the JCB machine of the applicant was engaged for that purpose.

6. Perusal of the FIR itself shows that through JCB machine owned by the present applicant, minor mineral was being excavated. When the revenue Officers were enquiring the matter with the present applicant, driver of the present applicant flee from the spot with JCB machine. Panchanama recorded during the course of investigation shows that minor mineral was being excavated.

7. Record of investigation prima facie shows complicity of the applicant in offence punishable under Section 379 of the IPC and therefore no case for pre-arrest bail is made out.

8. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

.....