

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.527 OF 2016

Chandrashekhar Raghunath Bagul	..Applicant
V/s.	
The State of Maharashtra	.. Respondent

Mr.Aniket U. Nikam for the applicant.
Mr.Arfa Sait APP for Respondent-State.
Mr.R.M. Gavandi (Police Naik) Malegaon Chavani Police Station,
Thane.

CORAM : A.M. BADAR, J.

DATE : 07th JUNE, 2016.

P.C.

1. The applicants/accused in Crime No.55 of 2016 for the offence punishable under section 379 read with section 34 of Indian Penal Code and allegedly under section 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966, registered with Malegaon Chhavani Police Station, District-Nasik (Rural), by this application is praying for pre-arrest bail.

2. Heard learned counsel appearing for the applicant. He argued that the applicant is tried to be roped in on the basis of the statement of the co-accused that the applicant had

handed over gate pass to him. He further argued that there is no material on record to show that the alleged gate pass was issued by the present applicant. He further argued that the applicant is not a Government employee and the prosecution has not collected any material to show that the gate pass bears his handwriting or signature. Therefore, according to the applicant, his liberty needs to be protected.

3. As against this, the learned APP argued that a gate pass was seized from the driver who is arraigned as co-accused, He further argued that the said co-accused made a statement that gate pass of transaction was handed over to him by the present applicant. By pointing out the affidavit filed by the State opposing the application it was argued that in order to unearth the entire scam, it is necessary to go to the root of the matter. He further argued that involvement of some Government employee in the alleged offence in question cannot be ruled out and for that purpose custodial interrogation of accused is warranted. The learned APP further argued that part of the applicant in a large criminal conspiracy is required

to be unearthed.

4. Perusal of the FIR shows that on instructions of the superior police officer raid was conducted and a tractor with trolley carrying sand was intercepted. The FIR shows that the driver of the tractor had handed over the transit pass to the informant Talathi. According to the prosecution case the sand was being transported without getting permission of the Government. Seized minor mineral is stated to be worth Rs.3,000/-.

5. Perused the alleged transit/gate pass. It is seen that the same does not appear to be a government document as it does not bear any seal of the authority issuing the same. Name of the one person Ashish Shewale is written thereon. The prosecution has not clarified as to how sand ghats are sold, royalty is recovered and how the gate pass/transit pass are issued. Role of the applicant in the crime in question could not be explained by the learned prosecutor except the fact that the co-accused has made a statement that the transit/gate pass was

handed over to him by the present applicant/accused.

6. The learned APP further argued that Section 420 of I.P.C. is added to the case diary of crime as the tractor was being plied on forged registration number. However, this averments is not relevant qua the present applicant.

7. Considering the nature of the evidence against the accused/applicant and the role allegedly played by him in transportation of minor mineral, his liberty needs to be protected as custodial interrogation is warranted. Hence order.

ORDER

(i) The order granting ad-interim anticipatory bail on 02-03-2016 is confirmed on same terms and conditions.

(ii) In addition, the applicant/accused is further directed to attend the investigating officer on 14th, 17th and 23rd June 2016 in between 11.00 a.m. to 1.00 p.m. and co-operate him in investigation of the crime.

(iii) Applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

(iv) Applicant / accused shall not commit an offence similar to the offence which is alleged against him.

(v) The application is disposed of accordingly.

(A.M. BADAR, J.)