

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1219 OF 2015**

Akhbar Husain Safi Husain

...Applicant

v/s.

The State of Maharashtra.

...Respondent

Mr. Ashok P. Mundargi i/b Mr. Balasaheb R. Deshmukh for the applicant.

Mrs. Veera Shinde, APP for the State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : JANUARY 19, 2016.

P.C.

. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in crime No.89/2015 registered by Neral Police Station Raigad for offence under section 379 r/w. 34 of Indian Penal Code and under section 41, 42 and 52 of Indian Forest Act and Rules 31, 47 82(2) of Maharashtra Forest Rule, 2014.

2. The case of the prosecution in brief is that the applicant herein is the owner of a farm house named as Raju Farm House situated at Naralwadi. It is alleged that in the intervening night of 24/7/2015 and 25/7/2015 at about 3.30 a.m. some persons were found loading red sandalwood in a vehicle. Seeing the police personnel, the persons who were loading the said goods had fled away from the place of the incident. It is alleged that 45 logs of red sandalwood were seized from the said farm house which was allegedly

in possession of the applicant herein. The said 45 logs were seized under panchanama. Pursuant to the complaint lodged by one Mukund Mhatre, Police Inspector FIR was registered against the applicant and others.

3. Mr. Mundargi, the learned counsel for the applicant submitted that the applicant herein is not the owner of the farm house and that he was not in possession of the same. He has stated that said farm house is owned by Annarao Bhima Rathod and by agreement dated 1/4/2015 he had given the said farm house to one Rafique Babu Khan on leave and license basis. The learned counsel for the applicant further submitted that apart from the statement of co-accused there is absolutely no material on record to show the involvement of the applicant in the said crime.

4. Mrs. Shinde, the learned APP has submitted that the value of the seized red sandalwood is Rs.3,00,00,000/- She has submitted that there is prima facie material to indicate that the applicant was in possession of the said farm house. She has further submitted that the material on record prima facie reveals that the applicant was present when the red sandalwood was being loaded in the vehicle belonging to one Rashidkhan Husainkhan Pathan.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The FIR lodged by Mukund Mhatre, police inspector, Neral police station prima facie reveals that 45 logs of red sandalwood were seized from the Raju farm house. The statement of Annarao Bhima Rathod the owner of the farm house prima facie reveals that he

had told the applicant herein that he wanted to give the said farmhouse on rent and the applicant herein had approached him alongwith said Rafique Babu Khan. His statement further reveals that the applicant had brought the stamp paper and that the applicant was involved in executing the said leave and license agreement. His statement also prima facie indicates that license fees for the first two months was paid by the applicant. Thus, the statement of this witness prima facie indicates that the applicant herein had taken the premises on leave and license basis in the name of Mr.Rafique Babu Khan.

6. The statement of the owner of the trailer No. SH 43 -G-2527 in which the goods were loaded, prima facie reveals that one Pradeep was the driver of the said trailer. The said trailer had GPS system and that during the intervening night of 24/7/2015 and 25/7/2015 while checking the said GPS system they found that location of the trailer was at Ambernath, MIDC PIU Line Road. They informed the police and thereafter they chased the said vehicle with the aid of GPS system. His statement further indicates that the said trailer was seen within the jurisdiction of Kalambh near one farm house. His statement further indicates that he had seen some people loading red sandalwood in the said trailer and that on seeing the police personnels 4-5 persons, who were near the farm house fled away by a black colour Fortune car. Rashid, the driver of white colour Hundai I-20 car who was at the place of the incident was apprehended. His statement further reveals that the vehicle was loaded with red sandalwood and thereafter the police had seized the said red sandalwood. Statement of this witness prima facie reveals that he had personally seen the people running away in a black colour

Fortune car and on the basis of a banner he had identified the applicant herein as one of the persons who had fled away from the scene of offence. The aforesaid material, in my considered view, prima facie, links the applicant with the aforesaid crime.

7. Learned APP has submitted that apart from this case, 15 other cases have been registered against the applicant.

8. Considering the value of goods seized, the nature of allegations and also, the criminal antecedents of the applicant, in my considered view, this is not a fit case to exercise discretion under section 438 of Cr.P.C. In view of these facts and circumstances, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)