

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1479 OF 2016

Shri Sharad Vithal Koli	...	Applicant/Accused
vs.		
The State of Maharashtra	...	Respondent

Mr.M.A.Choudhari, Advocate for the applicant.
Mr. S.S.Pednekar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 19th September, 2016.

P.C.

1. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.367 of 2016 registered at Mangalwedha Police Station, Taluka Mangalwedha, Dist. Solapur for the offences punishable under Sections 392, 341, 384, 504, 506 of the Indian Penal Code.

2. The applicant herein claims to be a social worker and agriculturist. It is the case of the prosecution that one Shri Hanumant Kumbhar, resident of Achaknali, who was working as truck driver on the truck of one Shankar Chikodkar, had lodged a report alleging therein that

on 10.6.2016, he was deputed to transport sand by his owner on 10.6.2016. On 11.6.2016, he had filled in the truck with sand. The applicant had met him on the way. The applicant was seated in his Scorpio Jeep. He had intercepted the truck, The applicant had made enquiry with the complainant about the sand which he was transporting. According to the complainant, the applicant had snatched the cellphone from the complainant and had demanded Rs.50,000/-. He had also threatened the complainant that he would report to the Tahsildar, Mangalweda about the illegal transportation of sand. The complainant had allegedly informed the applicant that he would take instructions from the owner and then make the submission. Since the complainant was scared, there was delay in lodging the FIR.

3. As against this, the learned counsel for the applicant submits that on 13.6.2016 itself, the applicant had lodged a report with Mangalwedha Police Station alleging therein that on 11.6.2016, he had intercepted the truck which was transporting illegally the sand without licence. That he was threatened by the driver. He had also alleged that he had immediately informed the office of Tahsildar in respect of the illegal transportation of sand. However, no action was taken. He has also alleged

that there is illegal transportation of sand by Sand mafia and the Tahsildar Shri Pradeep Shelar is helping the Sand Mafia. Since he had threat perception, he had filed a Writ Petition in this Court and by the directions of this Court, he was given protection. The complaint was sent to all concerned, including the Collector and the Superintendent of Police and Sub-Divisional Officer.

4. The learned APP, upon instructions, submits that in respect of the said complaint, the statement of some witnesses from the Tahsildar's Office was recorded and a report was also sent saying that on the basis of the telephonic information, they had gone to the spot, but had not found anyone. In fact, the information was given at 1-0 a.m. and the officers had reached after 3 – 4 hours. Admittedly, there is no plausible explanation for inordinate delay in lodging the FIR. The learned APP submits that although the applicant claims to be a whistle-blower, there are reversal complaints filed against him and his integrity in social work is doubtful. However, as on today, there is nothing on record to show that any cognizable offence has been registered against the applicant.

5. The learned counsel for the applicant submits that at the behest

of the applicant, several cases of the sand mafia were brought to light. he was successful in demonstrating the threat perception before this Court. Therefore, he was granted protection. This Court, prima facie, is of the opinion that custodial interrogation would not be imperative. Hence, the applicant deserves pre-arrest bail.

6. It is made clear that the above observations are restricted to an application under Section 438 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

7. The learned APP submits that the applicant is also being prosecuted under Sections 498A and 353 of IPC. The learned counsel for the applicant submits that all the offences are in respect of his obstruction to the sand mafia. Be that as it may, the applicant deserves anticipatory bail in Crime No. 367 of 2016 registered at Mangalwedha Police Station.

ORDER

(i) The application is allowed.

(ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall report to the concerned police station on 23.9.2016, 30.9.2016 and 7.10.2016 between 10 a.m. to 12 noon and co-operate with the investigating agency.

The Application is allowed in the above terms and disposed of.

(SMT.SADHANA S.JADHAV, J.)