

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1776 OF 2016

Shukracharya Babruwan Hawale

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Jaydeep D. Mane for the Applicant.

Mr. Rajan Salvi, APP for the Respondent -State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : NOVEMBER 24, 2016.

P. C. :

Heard the learned counsel for the Applicant and the learned
APP for the Respondent -State.

2. This is an application under section 438 of the Criminal
procedure Code, 1973. The Applicant herein is apprehending his arrest
in Crime No.496 of 2016 registered at Pandharpur Taluka Police
Station for the offences punishable under sections 353, 332, 341, 379,
143, 147, 149, 504 of the Indian Penal Code.

3. It is the case of the prosecution that the complainant
Nitendra Macchindra Devkate lodged a report in the police station

alleging therein that on 17th August, 2016 at about 11.40 p.m. when he was on patrolling duty alongwith other staff they saw a truck loaded with sand. They intercepted the said truck and upon enquiry it was found that the said sand was excavated and was being transported without any permission or license. It is alleged that Rambhau Kadam, driver of the truck, accompanied by another person by name Shukracharya Hawale were in the said truck. The complainant was taking the said truck to the police station for further enquiry and at that time one Scorpio Jeep had followed the said truck. Four persons alighted from the said Scorpio and had obstructed the complainant from discharging his official duties.

4. The present Applicant was seated in the truck and according to the learned counsel for the Applicant, in fact the Applicant was co-operating with the police machinery and therefore, he cannot be prosecuted for the offences punishable under section 353 of the Indian Penal Code. He further submits that the Applicant is an agriculturist and a resident of the same village. It is not the case of the prosecution that the Applicant had excavated or transported the sand illegally. Taking into consideration the papers of investigation and role attributed to the Applicant, he deserves to be granted pre-arrest bail.

5. It is made clear that the observations are restricted to an application under section 438 of the Criminal Procedure Code and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

O R D E R

(i) The application is allowed.

(ii) In the event of arrest, the Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(iii) The Applicant shall report to the concerned police station from 30.11.2016 to 3.12.2016 every day from 10.00 a.m. to 12.00 noon and cooperate with the investigating agency to the best of his capacity.

6. The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)