

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO.31/2016

Namdeo S/o Vithoba Sontakke

..Versus..

State Maharashtra, through PSO Chamorshi, Distt. Gadchiroli

AND

CRIMINAL APPLICATION (ABA) NO.32/2016

Namdeo S/o Vithoba Sontakke

..Versus..

State Maharashtra, through Round Forest Officer, Region Markanda (Kansoba), Tah.
Chamorshi, Distt. Gadchiroli

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 18.2.2016

Heard Shri S.V. Sirpurkar, advocate for the applicant and Shri S.S. Doifode, A.P.P. for the non-applicant (in Criminal Application (ABA) No.31/2016) and Shri V.P. Maldhure, advocate for the non-applicant (in Criminal Application (ABA) No.32/2016).

These two applications can be disposed by common order as the incident for which the applicant is booked is same.

The applicant has filed Criminal Application (ABA) No.31/2016 seeking pre-arrest bail in Crime no.124/2015 registered by the Police Station Officer Chamorshi for the offence punishable under Section 379, 353, 186, 504, 506

read with 34 of the Indian Penal Code.

The applicant has filed Criminal Application (ABA) No.32/2016 apprehending arrest in crime registered against him vide P.O.R. No.93/4604 for the offence punishable under Section 52(1), 26(1)(g)(d) of the Indian Forest Act.

The allegations against the applicant are that he was illegally carrying trolley load of sand from the nallah flowing through the forest under the control of Forest Development Corporation of Maharashtra. The learned advocate for the applicant has pointed out the permission granted by the Forest Round Officer of Forest Department to transport two trips of sand and mud for the plantation done in the garden situated at Ghot.

Shri Maldhure, advocate has submitted that the permission is granted by officer of Forest Department and not by officer of Forest Development Corporation of Maharashtra. It is submitted that the sand is collected from the nallah flowing through the forest under the control of Forest Development Corporation of Maharashtra and the tractor and trolley are also seized in the forest under the control of Forest Development Corporation of Maharashtra.

The allegations against the applicant are not that he had already carried two trolley of sand and mud and the trolley of sand which is seized was being carried by him in excess of the permission granted by the Forest Round Officer. There is dispute raised by the locals as to whether the concerned forest

should be continued under the control of Forest Department or should be handed over to Forest Development Corporation of Maharashtra. The applicant is Ex-Sarpanch of village Ghot and presently Member of Zilla Parishad, Gadchiroli and Member of Joint Forest Management Committee. According to the applicant, he is leading agitation opposing the transfer of land from Forest Department to Forest Development Corporation of Maharashtra. The non-applicant in Criminal Application (ABA) No.31/2016 and the non-applicant in Criminal Application (ABA) No.32/2016 have not been able to show that permission granted by the Forest Round Officer by the communication dated 23rd December, 2015 for transporting two trolleys of sand and mud is for lifting sand from some other area and not from area where the sand is collected by the applicant.

The applicant has stated that he has not been involved in any crime, earlier. The non-applicants have not been able to controvert this submission.

In view of the above, I am convinced that the applicant is entitled for pre-arrest bail. Hence, the following order:

(i) In the event of arrest of applicant in Crime No.124/2015 registered with police station Chamorshi, Distt. Gadchiroli, the applicant be released on bail on furnishing P.R. bond in the sum of Rs.5,000/- and one solvent surety in the like amount.

(ii) In the event of arrest of applicant in P.O.R.

No.93/4604, the applicant be released on bail on furnishing P.R. bond in the sum of Rs.5,000/- and one solvent surety in the like amount.

- (iii) The applications are **allowed** in the above terms.
- (iv) No orders as to costs.

JUDGE

Tambaskar.