

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH, AT NAGPUR.**

**CRIMINAL APPLICATION (BA) NO.298 OF 2016**

(Gajanand Marotrao Bavane ..vs.. The State of Maharashtra, through PSO, PS Lalkhed, District  
Yavatmal)

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

**CORAM : Z.A. HAQ, J.**  
**DATED : 13-05-2016**

Heard Shri A.J. Mirza, Advocate for the applicant  
and Ms. P.D. Rane, Additional Public Prosecutor for the  
non-applicant.

2. The applicant is arrested on 01-12-2015 in crime  
registered against him for offence punishable under  
Section 302 of the Indian Penal Code.

3. The investigation is complete and charge-sheet is  
filed on 24-02-2016. The case of the prosecution is  
based on circumstantial evidence. The Investigating  
Officer has not explained as to why the tractor alleged to  
be owned by the applicant and said to have been used  
for excavating sand is not seized.

4. The non-applicant has not been able to show that  
custody of the applicant is required for further  
investigation.

Considering the facts on record, in my view, the applicant should be released on bail, however, on certain conditions.

5. Hence, the following order :

i) The applicant shall file an affidavit before the Sessions Court undertaking that the applicant will not indulge in sand excavation unless he has the authorisation for it, according to law.

The applicant shall also give an undertaking in the affidavit that the tractor owned by the applicant shall not be used for transporting sand, even on hire basis.

ii) The applicant shall be released on bail, on furnishing P.R. Bond for Rs.50,000/- and one solvent surety in the like amount and the applicant shall file affidavit within three days of his release.

iii) The applicant shall attend the Sessions Court regularly on every date unless granted exemption by the Sessions Court.

iv) The application is allowed in the above terms.

**JUDGE**