

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

CRIMINAL APPLICATION NO. 2597 OF 2017

Rajendra S/o Shankar Pawar ... Applicant

VERSUS

The State of Maharashtra ... Respondent

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Mr.V.R.Dhorde, advocate for the applicant

Mr.S.B.Joshi, A.P.P for respondent

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CORAM : K.L.WADANE, J.

DATED : 11th JULY, 2017

O R D E R :

Heard Mr. Dhorde, learned counsel for the applicant and the learned A.P.P. for respondent.

2. Crime No. 31 of 2017 came to be registered at Parner Police Station, District Ahmednagar for the offence punishable under section 379 r/w 34 of the Indian Penal Code and Section 3/15 of Mine and Minerals Act. It has been alleged that Suresh Fulsundar, Bhagchand Fulsundar and others were illegally excavating the sand from the Kukadi Canal in the vicinity of Pandharwadi by using JCB machine of the present applicant. It has been

further alleged that when the police and villagers went at the spot, they saw tyre marks of JCB and tractor. It has been alleged that some of the accused ran away and one of the accused Suresh Fulsundar came to be apprehended. During interrogation of this accused Suresh Fulsundar he disclosed that sand was transported by JCB of the applicant and other vehicles.

3. From the contents of the first information report, it appears that the allegations against the applicant are that one JCB was belonging to him and at the spot there were tyre marks purported to be of JCB. Nowhere it is alleged in the first information report that in fact the present applicant has transported sand.

4. On perusal of the papers of investigation, it is seen that the investigating officer has recorded statements of 3-4 witnesses and beyond that he has done nothing. In fact it was for the investigating officer to collect the documents about ownership of JCB. The alleged incident took place on 12.2.2017 and from perusal of

communication dated 26.6.2017 it appears that he has forwarded letter to the Deputy Regional Transport Officer, Vishrantwadi, Pune calling details of the ownership of the JCB and it is very surprising to note that the investigating officer has made a farce of investigation and in fact he does not want to collect any information with reference to registration number of JCB. Communication issued to the Deputy Regional Transport Officer, Pune is without registration number of JCB. Therefore, it will be difficult to know its owner. From the papers of investigation, it appears that the investigation is carried in very casual manner.

5. Criminal Application is allowed.

In the event of arrest, the applicant be released on bail on his furnishing P.R. bond in the sum of Rs. 10,000/- with one solvent surety in the like amount.

The Registrar of this Court is directed to send copy of this order to the Superintendent of Police, District Ahmednagar for information and

necessary action.

6. Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm/crap