

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1074 OF 2017**

Hajimalang Babu Shaikh & Ors.

...Applicants

Versus

State of Maharashtra

...Respondent

Mr. Ritesh Thobde for the Applicants

Ms. S. S. Kaushik, A.P.P for the Respondent-State

PC Mr. Ajit Sanjay Surwase from Mangalwedha Police Station, Solapur, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 28th JUNE, 2017

P.C.

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 512 of 2016 registered with the Mangalwedha Police Station, Solapur, for the alleged offences punishable under Sections 379 r/w 34 of the Indian Penal Code and Sections 9 and 15 of the Environment Protection Act.

3. Learned Counsel for the applicants submits that 6 brass of sand valuing Rs. 42,000/- was found in somebody's property being Gat No. 3 at Village Sidhpur. He submits that there is no material to connect the applicant with the alleged offence.

4. Learned A.P.P opposed the application. She submitted that there are two eye-witnesses in the said case, who have seen the applicants committing theft of the sand. She submitted that the said witnesses have specifically stated that despite being warned by the said witnesses not to commit theft, the said persons loaded the sand in the tractor which had no number plate.

5. Perused the papers. The complainant is Vijay Ashok Ekatpurhas, the Talathi of Village Sidhpur. He has stated that he was informed by Jitendra More, Vijaykumar Shinde and Dattatraya Koli about illegal excavation of sand in their area, pursuant to which, the complainant and the said persons went to the said spot. The information received was with regard to illegal excavation of sand from the banks of river Bhima by ten persons. Admittedly, none of the applicants are license holders and had

permission to excavate the sand. A perusal of the statement of Dattatraya Koli and Bhimashankar Patil shows that on 22nd October, 2016 at about 11:30 p.m., they were patrolling the said area as illegal excavation of sand was taking place in the said area. They have stated that when they were going through Gat No. 3, they saw the accused persons filling sand illegally in the tractor, which had no number plate. He has stated that when they tried to stop the said persons from taking the sand, they asked them to do what they wanted and carried the sand in the said tractor. They have stated that on the next day i.e. on 23rd October, 2016 at about 10:00 a.m., they informed the Talathi-Vijay Ekatpurhas, pursuant to which, all the said persons came to Gat No. 3 and found excavated sand worth Rs. 40,000/-.

6. The applicants have been specifically named by the said witnesses. There are similar antecedents against applicant Nos. 2 and 3 of the year 2016. Considering the fact, that the applicants have been specifically named, it is not a fit case to grant pre-arrest bail to the applicants. Accordingly, the application is rejected.

7. It is made clear that if an application for regular bail is filed, the same shall be decided by the learned Judge, on its own merits, uninfluenced by the rejection of this application.

REVATI MOHITE DERE, J.