

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1103 OF 2017

1. Dattatraya Mahalu Gaikwad .Applicants
2. Sajid Sikandar Shaikh alias
Mulani

Vs.

The State of Maharashtra .Respondent

Mr.U.R.Mankapure, Advocate, for the Applicants
Mrs.R.Ambekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 07.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C.R.No. 247 of 2017 registered with the Karmala Police Station, Solapur(Rural), for the alleged offence punishable under Section 379 r/w 34 of the Indian Penal Code and under Section 15 & 9 of the Environment Protection Act.

3. Learned counsel for the Applicants submits that the Applicants have been falsely implicated in the said case. He submits that the Complaint/FIR is based on hearsay evidence. He submits that the spot, where the sand was excavated was given to the Applicants and that the Applicants had deposited a sum of Rs.1,60,00,000/- with the Collector. He submits that since possession of the said plot was not handed over, the Applicant No.1 has filed a Petition in this Court.

4. Learned APP opposes the Application. She has filed an Affidavit of Vishwas Harishchandra Pawar, Police Head Constable attached to the Karmala Police Station, Solapur(Rural), District – Solapur. She submits that the Applicant No.1 was not allotted the plot and this is evident from the notice issued by the Tahsildar, Karmala to the Applicant No.1. She further submits that there are 13 eye

witnesses, who have seen the Applicants excavating the sand from the plot, despite having no permission to do so. She further submits that there are similar antecedents against both the Applicants.

5. Perused the papers. The incident has taken place on 16.04.2017. According to the Complainant – Sachin Arun Hingmire, Police Naik, he alongwith other police persons had visited the backwaters near Jinti at about 8.00 p.m.. He has alleged that they saw 30 brass of sand and 20 brass of sand totaling an amount of Rs.5,00,000/- on the site, of Ujani backwaters Gat No.72. He has further alleged that the number plates on the JCB and tractors were covered with paint or with mud. It appears that during investigation, the spot panchanama was conducted and 30 brass and 20 brass of sand was seized. It appears that boats, JCB, tractors and 50 brass of sand allegedly taken in the said

tractors worth Rs.50,00,000/- is yet to be seized. Admittedly, possession of the land was not given to the Applicant No.1. There are 13 eye witnesses who have named the present Applicants. It also appears that there are similar cases as against the Applicants. As far as the Applicant No.1 is concerned, there are ten similar cases registered against him from the year 2010 till date. As far as the Applicant No.2 is concerned, there is one similar case registered against him in the year 2017 and two other cases of the year 2012 and 2013 i.e. for the offences punishable under Sections 307, 324 etc. of the Indian Penal Code of the year 2012 and for the offence punishable under Section 341 & 324 of the Indian Penal Code of the year 2013.

6. Considering the material on record, this is not a fit case to grant pre-arrest bail to the Applicants. Accordingly, the Application stands rejected.

7. It is made clear, that the observations made herein are prima facie for deciding the aforesaid Application. If an Application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)