

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1163 OF 2017**

Naganath Shivaji Ghodake

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. S. S. Chaudhari for the Applicant

Mr. Rajan Salvi, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 6th JULY, 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. 314 of 2017 registered with the Pandharpur Taluka Police Station, Pandharpur, Solapur, for the alleged offences punishable under Sections 353, 332, 379, 504 r/w 34 of the Indian Penal Code and under Sections 9 and 15 of the Environment Protection Act.

3. Learned Counsel for the applicant submits that although another co-accused had disclosed the name of the applicant as the owner of the tipper, the applicant is not the owner of any of the tipper. He submitted that the allegations as against the applicant are false and vague.

4. Learned A.P.P opposed the application. He submitted that not only has the applicant been named in the FIR but a specific overt act has been attributed to him. He submitted that the applicant along with co-accused is stated to have assaulted the complainant i.e. the Circle Officer with fist and kick blows and is also alleged to have verbally abused him and others and obstructed them in their official duty. He submits that there is a similar antecedent against the applicant registered with the same police station on 17th April, 2017.

5. Perused the papers. According to the complainant-Chandrakant Dhavale, a Circle Officer, he received information that there was excavation of sand going on at village Shelve and that three tippers were filled with sand. He has stated that pursuant to the said information received by him,

he informed the Nayab Tahsildar-Shri P. S. Titkare, the Talathi of Village Shelve-Shri N. V. Kumbhar, Talathi of Vhole- Shri M. K. Kazi, Kotwal of Bhandishegaon-Shri Anil Jadhav and Kotwal of Village Shelve-Shri Jitendra Lokhande. He has stated that all of them reached the river bed of Village Shelve. He has further stated that they saw two tippers filled with sand, having no number plates. When they stopped the said tippers and asked the driver his name, the driver did not disclose his name but disclosed that the applicant was the owner of the said tippers. Thereafter, the complainant and others proceeded to the river bed of River Bhima and saw one yellow JCB was filling sand in a tipper. When the owner of the JCB saw them, he ran from the said spot with the JCB. It is alleged that two persons ie. Tukaram Gajare and Sunil Patil were excavating sand at the said spot and the said persons ran away from the spot. Thereafter, the complainant and Talathi moved towards the other two tippers which were standing on the road. At that time, the applicant and other accused are alleged to have come to the spot in a Scorpio vehicle without any number plate. The said persons are alleged to have assaulted the complainant with fist and kick blows and verbally abused him and obstructed him in his official duty. The applicant has been specifically named in the FIR. The

vehicles which were seen at the spot were without number plates. Even the Scorpio vehicle in which the applicant and others came, had no number plate. The applicant has assaulted the Circle Officer i.e. the complainant and has obstructed him in his official duty.

6. Considering the aforesaid, this is not a fit case to grant pre-arrest bail to the applicant. The application is accordingly rejected.

7. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application and if an application for regular bail is filed, the trial Court shall decide the same on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.