

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

ANTICIPATORY BAIL APPLICATION NO. 924 OF 2018

Mr. Shivrudra Shrimant Bahirgonde ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr.Sharad Bhosale, for the Applicant.
Mr. N.B.Patil, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 10, 2018.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in Crime No.66 of 2018 registered with Mandrup Police Station, Solapur for offences under Section 379 r/w. 34 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that the applicant is not involved in the crime and that it was not possible to go away with tractor filled with sand during the night time. He submits that the vehicle No. MH 13 AN 3375 is not owned by him. The learned APP submits that the applicant was very much present at

the place of the incident and that he was illegally extracting sand from the Bhima River Bank, and loading the same in truck no.MH 13 AN 6675. He submits that when the applicant was asked to take the tractor to the police station, he fled away to Karnataka and thereafter he was not available. The learned APP submits that the subsequent investigation revealed that the applicant had used a fake number plate for the truck. He submits that considering the nature of the offence as well as the conduct of the applicant, the applicant is not entitled for pre-arrest bail. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State.

3. The aforesaid crime was registered pursuant to the FIR lodged by Suresh Arjun Koli, the Talathi of the Village. A perusal of the FIR prima facie reveals that an information was received about illegal excavation of sand from Bhima River bed. Hence, they formed a patrolling squad to check the illegal excavation of sand. On 24th March, 2018 the first informant and other officers of Revenue Department were on patrolling duty in the vicinity of village Sadhapur, Lavangi, Balagi and Karkal in South Solapur in order to

track illegal extraction of sand from the bed of Bhima River. The first information report reveals that when the patrolling squad reached near Bhima river bed they saw the applicant and other co-accused illegally excavating sand and loading the same in tractors. The allegations against the applicant are that he was loading the sand in tractor bearing No. MH 13 AN 3375. In view of illegal extraction of sand, the applicant and others were directed to take their vehicles to Mundrup Police Station. It is alleged that the applicant did not follow the said instructions and fled away from the spot along with the said vehicle.

4. The investigation revealed that the applicant had proceeded to Karnataka. It was also revealed that the said tractors under registration no. MH 13 AN 3375 was not registered in his name and that the applicant had used a fake number plate. The record further reveals that despite instructions, the applicant has not produced the tractor before the concerned police officer at Mandrup Police Station.

5. The material on record prima facie reveals that the applicant was involved in illegal sand excavation. Such acts need to be checked and are therefore required to be thoroughly probed so as to

avoid depletion of natural resources and consequential result in ecological imbalance.

6. Considering all the above facts and circumstances, in my considered view, this is not a case to exercise discretion under Section 438 of Cr.P.C. Hence the application is dismissed. Suffice it to say that the aforesaid observation should not be construed as expression of opinion on merits of the case.

(ANUJA PRABHUDESSAI, J.)