

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

ANTICIPATORY BAIL APPLICATION NO.77 OF 2018

Sachin Balasaheb Kaulge Applicant
 Vs.
The State of Maharashtra Respondent

Mr. Tushar N. Sonawane for the applicants.
Mr. Y.M. Nakhwa, APP for the State.

Coram : *Smt. Sadhana S. Jadhav, J.*
Date : *19th January, 2018*

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.701 of 2017, registered at Pandharpur police Station, for the offences punishable under Sections 332, 353, 379 read with 34 Indian Penal Code and under Sections 15, 9 and 21 of Environment (Protection) Act, 1986.

3 It is the case of the prosecution that on the basis of secret information, the Sub Divisional Officer had been informed that there is illegal excavation of sand on the banks of river Bhima and

therefore on 9th December 2017 at about 4.30 pm., he alongwith the police staff and others had been to the spot. Upon seeing the complainant and the police staff, the driver of the tractor had fled from the spot by jumping into the river. On the spot, there was a JCB with which the persons were excavating the sand. Two persons were apprehended on the spot and taken into the custody. The investigating agency has seized the tractor, JCB and sand, which was illegally excavated. The tractor belongs to original accused no.3 i.e. one Neva @ Nivrutti Kharche. According to the police, Kharche had disclosed that he runs tractor in partnership with the present applicant and they together sell the sand.

4 Learned counsel for the applicant submits that the said statement is probably recorded under the coercion. According to the learned counsel for the applicant in fact the applicant herein happens to be the holder of the agricultural land, which is adjacent to the land where the excavation was in progress. There are some local issues and therefore the applicant has been falsely implicated.

5 Upon perusal of the papers of investigation, it is apparent that the applicant was not present at the spot. The applicant has no criminal antecedents of the similar nature. Hence, the applicant deserves pre-arrest bail.

6 The observations made hereinabove are prima facie in nature. The learned Sessions Court shall not be influenced by the above observations at the time of hearing the application for discharge or quashing of FIR or at the time of trial. Hence, the following order is passed :

O R D E R

- 1 The application is allowed.
- 2 In the event of arrest in Crime No.701 of 2017, registered at Pandharpur police Station, the applicant be enlarged on bail on furnishing PR. bonds in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- 3 The applicant shall report to the concerned police station on 24th and 25th January 2018, 29th and 30th January 2018 between 10.30 am. to 12.00 noon and co-operate with the investigating agency to the best of his capacity.

(*Smt. Sadhana S. Jadhav, J*)