

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 777 OF 2018**

Nilesh Sudhakar PatilApplicant.

Vs.

The State of MaharashtraRespondent.

WITH

ANTICIPATORY BAIL APPLICATION NO. 778 OF 2018

Ramesh Tukaram KataleApplicant.

Vs.

The State of MaharashtraRespondent.

Mr. N.R. Bubna for the Applicant.

Ms. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 4th DECEMBER, 2018.

P.C.:-

The Applicants were granted interim relief by an Order dated 18th April, 2018.

2. Heard Shri. Bubna, the learned counsel for the applicant and the learned APP. Perused the record.

The Applicant in ABA No. 778 of 2018 is the alleged authorized contractor/licensor, who has been granted permission to

excavate sand from Gat No. 77 and 81, Village Khaparkheda, Taluka Amalner, District Jalgaon, for excavation of sand. The Applicant in ABA No. 777 of 2018 is the associate of Applicant in ABA No. 778 of 2018.

The first information report is lodged by Smt. Jyoti Devare, Tahasildar of Malegaon, District Nashik. It is the prosecution case that, on 13th March, 2018, and 18th March, 2018, 5 trucks each containing illegally excavated sand were seized by the Revenue Authorities and the said vehicles were deposited/parked in the precincts of Tahasildar office, Malegaon. On 20th March, 2018, when the Tahasildar attended her duties in the morning, it was noticed that the said 10 vehicles have been stolen by some unknown persons. In view thereof, the present crime is registered.

3 Mr. Bubana, the learned counsel appearing for the Applicant submitted that, the Applicant Ramesh Katale is a lawful contractor, who has been granted permission by the Government of Maharashtra to excavate sand from the aforesaid Gat Nos. in pursuance of the contract/license executed on 22nd December, 2017. He submitted that, the said Applicant was officially excavating sand and was supplying to the concerned persons and therefore, the said

Applicant cannot be held responsible for the alleged act of theft committed by the owners of the said trucks. He submitted that, the prosecution is alleging that, Mr. Nilesh Patil is an associate of Mr. Ramesh Katale, though as a matter of fact, both the Applicants are independent entities and have nothing to do with each other. He further submitted that, the alleged bogus receipts seized from the drivers of the said trucks, might have been fabricated by the owners/drivers of the said trucks themselves and the Applicants have nothing to do with the same.

He further submitted that, the Applicants have provided original genuine receipts to the concerned and if those receipts are subsequently manipulated by somebody else, the Applicants cannot be held responsible for the same. He further submitted that, the sand was excavated in Taluka Amalner, District Jalgaon and when the said trucks were accosted at Malegaon, the said trucks had already crossed 3 check-posts and therefore, the allegations that the said trucks were found at Malegaon, has no substance in it. He, therefore, prayed that the Applicants may be protected by pre-arrest bail.

4 The record of investigation indicates that, when the revenue authorities accosted the said 10 trucks mentioned in the first

information report at Malegaon, the drivers of the said trucks produced certain receipts/documents for carrying the said sand. It is revealed during the course of investigation that the said receipts are bogus receipts and as per the prosecution, the sand which was carried by the said truck owners was in contravention of the provisions of law.

It is the prosecution case that, the Applicant Ramesh Katale though is permitted by the Collector of Jalgaon to excavate sand from the afore-stated Gat numbers, he subsequently, gave bogus receipts to the concerned to carry the said alleged sand and thereby ultimately caused loss to the Government Exchequer towards its royalty.

5 The record further indicates that, the Applicant Mr. Nilesh Patil is closely associated with the Applicant Mr. Ramesh Katale and is helping him in conducting the said business, so also the alleged illegal activities.

6 Apart from the afore-stated facts, the first information report, as lodged by the Tahasildar Malegaon, itself is self eloquent.

7 It is the prosecution case that, 10 trucks after seizure were parked in the precinct of the Malegaon Tahasildar office, have been stolen by the Accused persons. The record indicates that, it is the

Applicant Ramesh Katale along with the Applicant Mr. Nilesh Patil have direct interest in causing disappearance of the said trucks from the office of the Tahasildar Malegaon.

8 In view of the above and after taking into consideration the serious allegations against the Applicants and the gravity of the offence, this Court is of the considered view that, the Applicants do not deserve to be protected by pre-arrest bail.

9 Applications are accordingly rejected.

10 At this stage, the learned counsel appearing for the Applicants submitted that, the Applicants are intending to prefer Appeal against the present Order before the Hon'ble the Supreme Court and the interim relief granted by Order dated 18th April, 2018 may be continued for a period of three weeks from today. At his request, interim relief shall continue for 3 weeks from today.

(A.S. GADKARI, J.)