

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1023 OF 2018

Kailas C. Patil	..Applicant.
vs.	
The State of Maharashtra	..Respondent.

Mr. Bhavesh Parmar i/by Devmani Shukla for the Applicant.
Mr. Prashant Jadhav, APP. for the State.
Mr.Vijay Bhise, Sr. PI. Bhoiwada Police Station present.

CORAM: A.S.GADKARI, J.
DATE : 22nd May, 2018

P.C.

1. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in CR No.I-512-2017 dated 29.12.2017 registered with Narpoli Police Station, Thane under Sections 379, 439 read with 34 of the Indian Penal Code read and under Section 48(7) of the Maharashtra Land Revenue Code with Sections 3(2), 15, 19 of the Environmental Protection Act with Section 4(3) of the Port Trust Act, Section 35(2) , 198 of Maharashtra Marine Board Act and Sections 19(a)(1), 59(a), 59(b) of the Indian Vessels Act.
2. Heard the learned counsel for the applicant and the

learned A.P.P. for the State. Perused the record.

3. The first information report dated 29.12.2017 is lodged by Additional Circle officer, Bhiwandi Region, Bhiwandi, District Thane. It is stated that, on 29.12.2017, the Tahsildar Shri. Mukesh Patil of the concerned Tahsil received specific information that some persons are illegally excavating the sand from the creek of Dive (Anjur) to Kasheli belt by use of suction pumps and directed the first informant and other Government employees to verify the same. That, on 29.12.2017 at about 6.00 a.m. the first informant along with other Government employees went to the scene of offence and found that certain persons were illegally excavating sand by use of suction pumps and barges from the creek of Dive Anjur. The Government employees thereafter sealed the machinery and accosted the people who were indulging into the said activity of illegal excavation of sand. In all 14-persons were apprehended at the scene of offence. During the course of investigation the persons who were found at the scene of offence disclosed that they were working under the

directions of co-accused Wasim Khan, Manoj Patil and Onkar Patil. The co-accused Wasim Khan further disclosed the fact that he was indulging into the said activity of illegal excavation of sand at the behest of the applicant and other two accused persons namely Dhanaji Patil and Jayesh Patil and the applicant used to pay him consideration at the rate of Rs.600/- per brass for excavating sand. In the premise, the first information report is lodged.

4. Mr. Parmar, the learned counsel appearing for the applicant submitted that except the statement of the co-accused, thereby disclosing name of the applicant there is no material on record to implead him in the present crime. He further submitted that the applicant has been impleaded in the present crime at the instance of the complainant Mr. Rakesh Bhagat against whom the applicant had earlier lodged complaint with the police on 10.10.2016. He therefore, prayed that the applicant may be protected by way of pre-arrest bail.

5. At the out set, it is to be noted here that, the

allegation against the accused persons in the present crime is that they were indulging into illegal excavation of sand i.e. Government property. It is to be noted here that for the purpose of investigation the statement of co accused can be taken into consideration. It is the settled position of law that, for getting further clue for investigation of the crime the statement of the co-accused can be looked into as it is not being used as a statement under Section 27 of the Evidence Act at the time of trial. The record clearly indicates that the applicant is the master mind behind the present crime.

6. The perusal of record of investigation would indicate that, there is sufficient material available against the applicant to show his complicity in the present crime. After taking into consideration the serious allegations against the applicant and the gravity of the offence this Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

7. Application is accordingly rejected

(A.S.GADKARI, J.)