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

ANTICIPATORY BAIL APPLICATION NO.1206 OF 2018

Lomesh Parshuram Chavrekar

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. K.S. Patil for Applicant.

Ms. J.S. Lohokare, APP for State.

Mr. P.S. Tayade, API, Roha Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 3rd December 2018.

P.C.:

1] The applicant is apprehending arrest in CR No. 58 of 2018 dated 27.5.2018 registered with Roha Police Station, District- Raigad under section 379 read with 34 of the Indian Penal Code and section 21 of the Mine and Minerals (Development and Regulation Act)

2] Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

3] The first information report is lodged by Mr. Bhaskar K. Tumbare, Talathi of village Chandgaon who has been assinged with additional charge of village Shenvai, Taluka Roha, District Raigad. The

prosecution case in brief is that, the Tahasildar, Roha received information that, at village Chandgaon, some persons are excavating sand from Kundalika river and therefore the Revenue Officer decided to conduct a raid at the said place. That on 27.5.2018 in the morning a raid was accordingly conducted and it was found that, certain persons were indulging into the activity of excavating sand with the help of two Barges. At the time of said raid, two persons ran away from the scene of offence. The Government Officer had taken photographs of the said persons on his mobile phone who were fleeing from scene of offence. The Revenue Authority found illegally excavated sand approximately of Rs.1,28,000/- at the scene of offence.

4] The learned counsel for the applicant submitted that, though the police patil of the said village was knowing applicant, his name has not been mentioned in the first information report. That the barges mentioned in the first information report do not belong to applicant and those are in the names of somebody else. That the police authority under the instructions of Revenue Authorities have already destroyed the said barges and therefore the custodial interrogation of the applicant is not necessary and prayed that he may protected by pre-arrest bail.

5] The record of investigation indicates that, the witness has identified the photograph of the applicant which was taken by the first informant on his mobile phone when he saw two persons fleeing away from the scene of offence. The said witness has identified one of the persons as the applicant.

6] Thus prima facie the presence of the applicant at the scene of offence is brought on record which indicates his complicity in the present crime. Even otherwise the allegation against the applicant is of theft of Government property i.e. illegal excavation of sand from Kundalika river. Undoubtedly, this act also causes damage to the environment. The applicant is not permitted by the Government to excavate sand from the said river. It is incumbent on the part of the police officer to unearth the entire truth behind the crime and for this purpose through interrogation of the applicant is necessary.

7] After taking into consideration the serious allegation against the applicant and the gravity of offence, this Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

(A.S.GADKARI, J.)