

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

ANTICIPATORY BAIL APPLICATION NO.1477 OF 2018

Ambadas B. Sadgir and Ors. ... Applicants

Vs

The State of Maharashtra ... Respondent

...

Mr. Sanjay P. Shinde for the Applicants.

Ms. P.P.Shinde, APP for the Respondent-State.

CORAM : SANDEEP K. SHINDE J.

DATE : 19 DECEMBER, 2018

P.C. :

The applicant seeks pre-arrest bail in Crime No.53 of 2008 registered with the Sarkarwada Police Station, Nashik for the for the offences punishable under Sections 379 read with Section 34 of the IPC.

2 Heard the learned counsel for the Applicants and the learned APP for the State.

3 Resident Naib Tahsildar has lodged the complaint on 18.2.2018 whereby he alleged that three trucks which were seized by

the office of the Tahsildar having found transporting the minor minerals illegally. The applicant no.1 is owner of one of the trucks. The other two applicants are drivers. It is alleged that for illegal transportation of the minor minerals, penalty was imposed and subject to payment of penalty, trucks were directed to be released. It is alleged that without paying penalty and without informing the authorities, the applicants drove away the trucks which were loaded with minor minerals. On this set of allegations, aforesaid crime was registered against the applicants under Section 379 read with Section 34 of the IPC.

4 The applicant no.1 has invited my attention to the challans at pages 44 and 45 to show that the penalty was paid. He has invited my attention to the application preferred by the applicant no.1 for return of the property (one truck). He submitted that the applicant no.1 has adopted appropriate proceedings before the Collector and the authorities in relation to the alleged illegal excavation/transportation of minor minerals.

5 It appears from the complaint that trucks which were seized by the office of Tahsildar having found transporting minor minerals illegally were taken away from the custody of the officers without paying the penalty. The learned counsel for the Applicants could not point out and/or place on record any evidence to show that the penalty was paid by the applicant no.1 before taking away truck from the custody of the authorities of Tahsildar. It is not brought to the notice of the Court as to whether owners of other two trucks are impleaded as accused in the present crime. Be that as it may, considering the facts of the case and particularly, in view of the fact that the applicant no.1 has taken away the truck from the custody of the Tahsildar without paying the penalty, it is a serious act and as such, I am of the view that the applicant no.1 deserves no relief and hence, his application is rejected.

6 So far as the applicant nos.2 and 3 who are drivers, are directed to be released on bail. Hence, the following order:

(1) Application for anticipatory bail of the applicant no.1 in Crime No.53 of 2018 registered with the Sarkarwada Police Station Nashik is hereby rejected.

(2) In the event of arrest of the applicants, each of them be released on executing PR Bond of Rs.25,000/- with one or two sureties in the like amount.

(3) The Applicants shall co-operate with the investigation and shall attend the concerned police station as and when required.

(4) The Applicants shall furnish their contact details and residential address so as to enable the I.O. to contact them as and when required.

(5) The Applicants shall not tamper with the prosecution evidence in any manner whatsoever.

(6) The Application is disposed of.

(SANDEEP K. SHINDE, J.)