

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
AN5TICIPATORY BAIL APPLICATION NO. 2099 OF 2017***

Vitthal Dnyandev Kale
Versus
The State of Maharashtra

Applicant

Respondent

Mr. Pranav H. Bhoite, for the applicant.
Mr. S.H.Yadav,APP, for the State.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 8th February, 2018.***

P.C. :

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.307 of 2017 registered at Daund Police Station, Tal. Daund, Dist. Pune, for the offences punishable under Section 379 read with Section 34 of the Indian Penal Code and Sections 9 and 15 of the Environment (Protection) Act, 1986.
2. It is the case of the prosecution that Sharad Maruti Londhe lodged a report at the police station on 8.6.2017 who was officiating as Talathi at Village Alegaon alleging therein that on 7.6.2017, they had received an information that there is illegal excavation of sand on the banks

of River Bhima. Upon oral directions from the senior, the complainant had been to the spot along with others. They had actually seen some persons excavating and loading the sand. They could identify (1) Vitthal Dnyandev Kale and (2) Suresh Mohan Jadhav and upon seeing them they fled from the spot of JCB machine. That they had illegally excavated 32 bras of sand from the banks of river Bhima.

3. The learned counsel for the applicant submits that he is an agricultural land on the banks. The land is used an access way. That he has no cocern with the alleged incident.

4. As against this, the learned APP submits that the brother of the applicant is the owner of JCB with which they had illegally excavated the sand. The registration of JCB is not mentioned in the FIR. Therefore, it would be difficult to ascertain as to whether it was the JCB of the brother of the applicant.

5. In view of the abovementioned facts and upon perusal of the papers of investigation, this Court is of the opinion that the applicant deserves to be granted pre-arrest bail.

6. It is made clear that the observations are restricted to an application under Section 438 of Cr.P.C. and shall not be taken into

consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall attend the police station as and when called.

(SMT. SADHANA S.JADHAV, J.)