

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 2330 OF 2018**

Anil Abaso GaikwadApplicant.

Vs.

The State of MaharashtraRespondent.

Mr. Kiran Nikam for the Applicant.

Mr. Amit Palkar APP, for the Respondent-State.

Mr. V.V. Jadhav, P.C., Rahimatpur Police Station, District Satara.

CORAM : A. S. GADKARI, J.

DATE : 24th NOVEMBER, 2018.

P.C.:-

This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. 176 of 2018, dated 13th October, 2018 registered with Rahimatpur Police Station, District Satara under Sections 420, 465, 467, 468, 470 and 471 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant and the learned APP.

3 The first information report is lodged by Shri. Rohit D. Jadhav. It is alleged that, the first informant was intending to construct his house and therefore, he purchased 24.5 brass of sand

from the Applicant for consideration of Rs.1,82,000/- and the Applicant issued 10 receipts in that behalf. The said transaction took place in the month of June, 2018. In the month of October, 2018, he received information that, within the jurisdiction of city Rahimatpur lot of transactions and/or supply of illegal sand is being carried out by various persons and therefore he checked the receipts issued by the Applicant. He found that, on the said receipts issued to him, the invoice number is not mentioned and the purpose for supply is mentioned as 'personal use'. In the premise, he approached the police and the present crime is registered.

4 The record indicates that, the Tahasildar Koregaon had conducted a search at the premises of first informant on 13th October, 2018 and found illegal storage of sand. The Tahasildar, accordingly prepared a punchanama and subsequently on 15th October 2018 issued notice to the first informant calling upon him to pay a fine on the said illegal storage of sand as contemplated under Section 48(7) (8) of the Maharashtra Land Revenue Code, 1966. It further appears that, after the concerned Tahasildar conducted search at the premises of the first informant, with a view to create defence in his favour and to save his skin from the clutches of law, the first informant has

lodged the present crime.

5 *Prima facie*, it appears that, Section 420 of the Indian Penal Code is not applicable to the present crime *qua* the Applicant. As far as Sections 465 and 467 of the Indian Penal Code are concerned, at this stage, the prosecution is unable to point out, which are the original Government documents are alleged to have been forged and/or fabricated by the Applicant. Mere mention of ‘personal use’ in the receipts, *prima facie*, does not attract any offence. If the said receipt is to be interpreted in its proper perspective, then the word ‘personal use’ has to be meant, as it was supplied by the Applicant for the personal use of the first informant and not otherwise.

6 In view of the above and after taking into consideration the peculiar facts and circumstances of the present case, this Court is of the considered view that, the custodial interrogation of the Applicant for further investigation of the present crime is not necessary.

7 In view of the above, the Applicant deserves to be protected by pre-arrest bail.

Hence, the following order-

- a) In the event of arrest in C.R. No. 176 of 2018 dated 13th October, 2018 registered with Rahimatpur Police Station, District Satara, the Applicant shall be released on bail on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.
- b) The Applicant shall attend the Investigating Officer as and when called for between 10.00 a.m. and 12.00 noon upon receipt of notice in writing by the Investigating Officer.
- c) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

8 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)