

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

ANTICIPATORY BAIL APPLICATION NO. 2406 OF 2018

Shankar R. Bondre and anr.

...Applicants.

Vs.

The State of Maharashtra

...Respondent.

Ms. Manjiri Parasnis for the Applicant.

Mr.N.B.Patil, APP. for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE 26th November, 2018

PC :

1. This is an application under Section 438 of the Code of Criminal Procedure in CR No. 829 of 2018 dated 15.10.2018 registered with Karmala Police Station, District Solapur Rural under Section 15 of the Environment Protection Act and under Sections 439 and 379 read with 34 of the of the of the Indian Penal Code.

2. Heard the learned counsel appearing for the applicants and the learned APP. Perused the record.

3. The first information report is lodged by Mr. Pravin R. Sathe, a police constable attached to Karmala Police Station, District Solapur Rural. It is

the prosecution case in brief that, upon receipt of confidential information that at Village Bondre, Taluka Karmala, certain persons are illegally excavating sand from the bank of Bhima river. Accordingly, the police personnel visited the said spot and conducted a raid therein at about 11.45 p.m. on 14.10.2018. The police noticed that, some persons are excavating sand from the bank of Bhima river with the help of a boat with machine thereon. When the police tried to accost the said persons three persons ran away from the scene of offence, however, the police are successful in apprehending one person from the spot and the name of the said person is Anarul Shaikh. During the course of his enquiry on the spot he revealed the name of Bhayya Golande at whose instance the said illegal activities were being conducted by the said persons. The applicant No.1 Shankar Bondre stated to be a worker indulging into actual excavation of sand.

4. The learned counsel for the applicant submitted that, after police conducted the raid at the said place have seized the boat used in the said crime along with other machinery under the provisions of Maharashtra Land Revenue Code. The said machinery and boat have been destroyed by the police and/or revenue authorities. She submitted that, nothing is to be

recovered at the instance of the applicant and therefore, the applicants may be granted pre-arrest bail.

5. The record of investigation indicates that, under the directions of applicant No.2 Mohan @ Bhayya Golande, the applicant No.1 and other accused persons were indulging into the illegal excavation of the sand from the bank of Bhima river, Taluka Karmala and as per the prosecution case the applicants had illegally excavated the sand to the tune of Rs.2,50,000/-. Undoubtedly it is the loss of the Government exchequer. Admittedly the applicant No.2 do not have licence or contract from the Government of Maharashtra to excavate sand from the bank of Bhima river. The offence lodged against the applicants is commission of theft of Government property. The investigation of the present crime is at nascent stage. Unless and until the applicants are thoroughly interrogated by the police the entire truth behind the crime and whether there are any other persons involved in the crime and how much actual loss suffered by the Government of Maharashtra will not be investigated.

6. After taking into consideration the aforestated facts, gravity of the offence and serious allegations against the applicants, this Court is of the

considered view that, the applicants do not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

(A.S. GADKARI, J.)