

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 873 OF 2019

Suresh S/o Ganesh Rathod,
Age- 26 years, Occ. Driver,
R/o Shivshankar Colony Garkheda
Parisar, Aurangabad,
Tq. & Dist. Aurangabad.

... **Applicant**

Versus

1) The State of Maharashtra
Through Investigating Officer
Jawahar Nagar Police Station,
Aurangabad, Tq. & Dist. Aurangabad.

2) Deepak S/o Jalindar Pawar,
Age: 23 years, Occ. Supervisor,
R/o Sonari, Tq. Fulambari, Dist. Aurangabad
At present resides near House of Shodi
Deshpande Pooram Jawahar Nagar,
Aurangabad, Tq. & Dist. Aurangabad.

... **Respondents**

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Mr. Rathod Sandip P, Advocate for the Applicant.

Mr. S.B. Joshi, A.P.P. for respondent-State.

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 18.04.2019

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard both the sides by consent for final disposal.

2. The crime was registered on the basis of report given by respondent no.2. He is an employee of one Jitesh Surana (Khurana Travels).

On 28.10.2018 at about 7.00 pm the transport vehicles were parked at Ulkanagari and there was diesel in the fuel tanks of the vehicles. On the next day they realised that somebody had committed theft of diesel which was of around 200 litres of diesel and it was collected from four vehicles of aforesaid transport company. A report was given against unknown persons and the crime came to be registered as Crime No. 264 of 2018. They suspected the present applicant as he was removed from the service by them few days prior to the incident.

3. This Court has perused the papers of investigation. There is no recovery as yet when the crime was registered on 29.10.2018. It appears that anticipatory bail was granted in favour of the applicant subject to some conditions. In the papers of investigation there is nothing on the basis of which the charge-sheet can be filed or charge can be framed. The first informant had only suspicion against the applicant. It will be abuse of process of law if the applicant is asked to face the trial for the offence of theft in view of the aforesaid circumstances.

4. In the result the application is allowed. Relief granted in terms of prayer clause-B. Rule made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]