

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

ANTICIPATORY BAIL APPLICATION NO.681 OF 2019

Vijay Suresh Pawar

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Prasanna Shahane i/b. Milind Deshmukh, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- HC Mr.S.A. Ombase, Vaduj Police Station, Satara, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 01st AUGUST, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.416/18 registered with Vaduj Police Station, Satara, under sections 379 r/w 34 of the Indian Penal Code and under sections 8 and 15 of Environment Protection Act, 1986.
2. The FIR is lodged by Police Constable Dadasaheb Balwant Bankar. He has stated in his FIR that on 29/11/2018, they received a secret information that some people were

excavating sand illegally from the river bed of Yerala River. The police party went towards the spot mentioned in the information. While they were going towards the river, they saw two tractors, 2 JCB machines, one jeep and stock of illegally excavated sand. JCB Drivers and tractor drivers ran away from the spot on seeing the police party. One of them was chased and was apprehended. His name was Yuvraj Madhavrao Patil. He gave information about the entire transaction. He informed that the tractors were owned by Mahadeo Bhausahab Godse, Pramod Deshmukh and Sameer Barkade. He specifically told police party that the JCBs which were taken away, was belonging to the present Applicant and one Vaibhav Kisan Salunkhe. The jeep was belonging to Yuvraj Patil himself. The police party inspected the spot and were convinced that the sand was illegally excavated and was illegally transported. Based on these allegations, the FIR is lodged.

3. Heard learned Counsel Mr.Prasanna Shahane for the Applicant and learned APP Mr.S.H. Yadav for the State.

4. The learned Counsel for the Applicant submitted that the JCB was found on the spot and there is no connection of the Applicant with the JCB. He submitted that the JCB was never owned by him.
5. As against these submissions, learned APP submitted that the JCB was not found on the spot and it was taken away by the driver of the JCB. There are statements recorded during the investigation showing that the JCB was given to the present Applicant by the original owner on rent.
6. I have considered these submissions and I have perused the investigation papers produced before me. Owner of the JCB has stated that in the month of November 2018 he had purchased the JCB. He was finding it difficult to pay installments. Therefore he had given that JCB to the present Applicant. The present Applicant was using that JCB for a rent of Rs.40,000/- per month. He has clearly stated that on

30/11/2019 JCB bearing No.MH-11-BA-9119 was in possession of the present Applicant.

7. The person who was apprehended at the spot i.e. Yuvraj Patil has clearly identified the present Applicant as the person who was driving that JCB, which was taken away from the spot, as soon as the police party reached there. Hence at this stage there is sufficient material against the present Applicant to connect him with the offence. His further involvement can only be found out through his custodial interrogation. Therefore no case is made out for grant of anticipatory bail. Hence the application is rejected.

(SARANG V. KOTWAL, J.)