

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

ANTICIPATORY BAIL APPLICATION NO.818 OF 2019

Parshuram @ Prashant Bhimrao Rathod Applicant

versus

The State of Maharashtra Respondent

- Mr. Kuldeep S. Patil, Advocate for Applicant
- Mr. Prashant Jadhav, APP for the State / Respondent.
- Mr. Vitthal Shrikant Sanap, PC 2216, Kawathemahankal Police Station.

CORAM : SARANG V. KOTWAL, J.

DATE : 9th JULY, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No.201/2018 registered with Kawathemahankal Police Station under Section 379 of IPC.

2. The FIR is lodged by Circle Officer. He has mentioned in his FIR that on 30/6/2018, they had intercepted a truck bearing No.MH-17K-5849 near Nagaz Phata. They searched the truck. During search, it revealed that there was 4.5 brass sand in the truck. The authorities seized the truck and the sand. The truck

was parked in front of Government godown near Tehsil office at Kawathemahankal. On 12/7/2018, when the first informant came to his office, he did not see the truck at the place where it was parked. Therefore, he was convinced that the owner of truck had stolen the truck to avoid payment of fine. On this basis, the FIR is lodged.

3. Heard Mr. Kuldeep S. Patil, Ld. Counsel for the applicant and Mr. Prashant Jadhav, Ld. APP for the State.

4. Shri. Patil submitted that the FIR is based on assumptions and there is absolutely no material against the present applicant to connect the applicant with the alleged crime.

5. Shri. Jadhav submitted that the truck was owned by the present applicant and therefore, he would be the only person interested in taking away the truck.

6. I have considered the submission of both Ld. Counsels. The FIR is based only on assumptions made by the first informant that the truck must have been taken away by the applicant from the place where it was parked as it was owned by him. First of all, when the truck was seized by the authorities, it was their duty to take care of it. It was parked at a public place and there was no sufficient vigilance to protect the truck. Thereafter, if the truck was missing, they should have take trouble to lodge the FIR immediately and should have assisted the police in tracing it. The truck was missing from 12/7/2018 and the FIR was lodged on 19/7/2018. Thus, for seven days the authorities did not take any steps and subsequently FIR is lodged purely on assumptions. Even during investigation, the connection of the present applicant with the offence is not found. The Investigating Officer is present in the Court. On his instructions, Ld. APP also could not point out any material connecting the present applicant with the alleged theft. The truck was found abandoned at a different place.

7. The offence was registered in July 2018. After comprehensive investigation even after one year the Investigating Officer have not found any material connecting the present applicant with the alleged crime. In this view of matter, the applicant has made out a case for anticipatory bail. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R. No. 201/2018 registered with Kawathemahankal Police Station, the applicant is directed to be released on bail on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.
2. The application is disposed of.

(SARANG V. KOTWAL, J.)