

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

CRIMINAL BAIL APPLICATION NO.2126 OF 2019

Pawan Vasant Pawar

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Kuldeep U. Nikam, Advocate for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 8th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.160/2019 registered at Vaduj Police Station, Satara under Section 379 r/w. 34 of IPC and under Section 9 and 15 of the Environment Protection Act, 1986.

2. The first information report is lodged by Police Constable Rahul Sartape. He has stated that at 11.00 p.m. on 17/6/2019, police party received secret information that illegally

excavated sand was being transported in some vehicles near village Mayani. Police party kept watch within village Mayani. At about 6.10 a.m. on 18/6/2019, they saw that six dumpers were travelling on the road in suspicious circumstances. The dumpers were intercepted. Their drivers were arrested. Each of the dumper was found containing three brass of sand. It is the case of the first informant that they also intercepted Indica Car bearing No.MH-9-BB-3463 which was being driven by the present applicant. It is the case of the prosecution that the applicant was keeping watch on the movements of the raiding party. Therefore, he was arrested. On this basis, the FIR is lodged. The applicant is in custody since 18/6/2019.

3. Heard Mr. Kuldeep Nikam, Ld. Counsel for the Applicant and Mr. Jadhav, Ld. APP for the State.

4. Mr. Nikam submitted that the applicant was not found in any of the vehicles which was carrying illegally excavated sand. Therefore, there is nothing to show that the applicant was in any

manner connected with the illegal excavation and transportation of sand. He submitted that the applicant is already in magistrate custody and his further custody will not serve any purpose.

5. As against these submission, Ld. APP submitted that if the applicant was not concerned with the entire operation, there was no reason for him to keep watch on those vehicles and the movements of the raiding party. He further submitted that the investigation is in progress and therefore, applicant should not be released on bail.

6. I have considered these submission. The FIR shows that the sand was being transported in six dumpers. The applicant was found in a different vehicle which was at some distance behind those vehicles. The applicant was arrested after his vehicle was intercepted. It is the case of the informant that applicant was keeping watch on the movements of the raiding party. At this stage, besides the suspicion entertained by the first informant and others, there is hardly any material against the present applicant.

The investigation is in progress since 18/6/2019. The applicant is already in magistrial custody. The investigating agency had an opportunity to interrogate him. The applicant is in custody for almost two months. In this view of the matter, I am inclined to grant bail to the present applicant. Ld. Counsel for the applicant also relied on the order passed by this Court on 29/7/2019 in ABA No.1667/2019 wherein anticipatory bail was granted to one Sujit Gaikwad who was also keeping watch on the vehicle of the raiding party. Sujit Gaikwad is mentioned as Pintu Gaikwad in the FIR. Though, he was found on the spot, the role of Sujit Gaikwad is similar to that of the present applicant. Therefore, on the principles of parity also, the applicant deserves to be released on bail, more particularly, since he is in custody for period of over two months. In this view of the matter, following order is passed.

ORDER

- (I) The applicant is directed to be released on bail in connection with C.R. No.160/2019 registered at Vaduj Police Station, District Satara, on his

executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.

- (ii) The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)