

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**ANTICIPATORY BAIL APPLICATION NO.478 OF 2019**

Sanjay Balkrishna Pawar & Anr. ] ... Applicant

Versus

The State of Maharashtra ] ... Respondent

Mr. Irfan Shaikh, Advocate for the Applicants.

Ms. S. S. Kaushik, APP for the State/Respondent.

API P.S. Tayade attached to Kolad Police Station, District Raigad present.

**CORAM :- SARANG V. KOTWAL, J.**

**DATE :- 9<sup>th</sup> JULY, 2019.**

**P. C. :-**

1. The applicants are seeking anticipatory bail in connection with C.R.No.I-11/2018 registered with Kolad Police Station, District Raigad u/sec. 379 r/w 34 of I.P.C. and under Section 21 of Mines And Minerals (Development And Regulation) Act, 1957.

2. The FIR is lodged by Talathi Sunil Jadhav on 01/02/2019. He has stated in his FIR that Tahsildar ordered him and his colleagues to go to Varas village where police had intercepted dumper bearing no.MH-02-CE-8159 which contained illegally excavated sand. When the first informant and others went there, they made inquiries with

the driver Kisan Jadhav and owner of the dumper Dilip Jambhale. They had no requisite permits. On further inquiries these two told the informant and others that the sand was brought from Kundalika river. Thereafter, the informant and others went there. They found that there were seven places where sand was stored. There were articles for excavating sand and there were barges which were used for the same purpose. On further inquiries, the truck owner Dilip Jambhale gave names of seven persons, two of the names were those of the present applicants. According to him, they were indulging in illegal excavation and transportation of sand. On this basis, the FIR was lodged.

3. Heard Mr. Irfan Shaikh, Ld. Counsel for the Applicants and Ms.S. S. Kaushik, Ld. APP for the State/Respondent.

4. Ld. Counsel for the applicants submitted that, on 06/02/2019, the police had arrested about 8 accused. Out of them Suresh Jadhav, Ganpat Pawar, Suresh Pawar and Ram Jadhav were also mentioned in the FIR whose names were given by Dilip Jadhav. Ld. Counsel pointed out that, on 06/02/2019, the police did not even seek their

police custody and straight away sought judicial custody. He therefore submitted that, police did not really need custody of those accused as well as of the present applicants for the purpose of investigation. He further submitted that, his case stands on the same footing as those for whom police custody was not sought.

5. As against this, Ld. APP pointed out that, during investigation the police have made inquiries with another accused Balu Pawar wherein he has informed that the sand was excavated at the instance and with active support of the present applicants. The other accused were mere labourers. Ld. APP further submitted that in this view, police did not seek their police custody. She further submitted that, the case of the present applicants stands on different footing than those accused for whom police custody was not sought.

6. I have perused the investigation papers. At this stage, the investigating agency is justified in considering the information given by accused Balu Pawar. It is sufficient to enable the police to arrest the accused for the purpose of custodial interrogation. The main role is attributed to them. The offence is serious. In this view of the

matter, no case for anticipatory bail is made out. Hence, the following order.

***ORDER***

Application is rejected and stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**