

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

ANTICIPATORY BAIL APPLICATION NO. 553 OF 2019

Shaukat Abdul Wahab Issane Applicant
Versus
The State of Maharashtra Respondent

- Mr. Rajendra Sorankar, for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.
- Mr. P.S.Giri, API, Mahad City Police Station present.

CORAM : SARANG V. KOTWAL, J.
DATE : 20th JUNE, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. I 07 of 2019 registered with Mahad Shahar Police Station, under section 379 r/w. 34 of the Indian Penal Code and under section 15 of The Environment (Protection) Act and under section 21 of The Mines and Minerals (Development and Regulation) Act, 1957.

2. The FIR is lodged by Circle Officer Kashinath Tirmale. According to him, on 07/01/2019 they received the secret information that one Aasif Ghole and the present applicant were excavating the sand illegally in the river bed of Savitri river,

therefore, the first informant sought help of the police. The panchas Jitendra Baikar and Vijay Khambe were called. All of them went to the spot which was near the river bed of Savitri river. At around 11.00a.m. they saw there were two small boats in the river bed, each of them was carrying three brass of sand. On the nearby plot there were two vehicles, one was dumper and other was a Bolero Pick up van. The Bolero pick up van was taken away by the driver. At that time, there were 15 to 16 workers working on that plot. They ran away. At that time, the present applicant came there and he informed the police party that one Ghole was conducting the business related to excavation of sand from that plot. The police party seized the small boats, excavation of sand and the vehicle which was parked on the plot. It is mentioned in the FIR that “it was the opinion of the panchas that present applicant was committing that offence”. Based on these allegations, the FIR was lodged.

3. Heard Shri. Sorankar, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

4. From the allegations of the FIR it is clear that the

present applicant himself had come on the spot. There is no nexus of the applicant shown with the alleged offence. Learned APP produced the investigation papers which include statements of the panchas, in which, they had expressed their opinion that the offence must have been committed by the present applicant. However, there is no supporting material for the panchas to arrive at this opinion. In any case, this opinion cannot be treated as a concrete piece of evidence. Thus, in the present case, there does not appear to be any involvement of the present applicant. Hence, he deserves protection of anticipatory bail.

5. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No.I 07 of 2019 registered with Mahad Shahar Police Station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)