

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

ANTICIPATORY BAIL APPLICATION NO.1263 OF 2019

Vikas Sukhdev Nakade

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Benimadhav H. Goswami, Advocate for Applicant.
- Ms. S. S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th JULY, 2019

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R. No.42/2018 registered with Mhaswad Police Station, under Section 307, 395, 353 r/w. 34 of IPC.

2. The FIR is lodged by one Police Constable Nilesh Kudale on 29/7/2018. He has stated in his FIR that on 29/4/2018, at around 9.00 p.m. police officers had received information that some people were illegally excavating sand in the

bed of river Manganga. Incidentally, this date 29/4/2018 is subsequently corrected by the first informant through his supplementary statement. Now the prosecution case is that they received information on 28/4/2018. The police party went to the spot mentioned in the information at around 1.40 a.m. on 29/4/2018. They saw that one person was roaming around in suspicious circumstances. He was apprehended and on making inquiry with him he told that he was a driver on the trolley of one Gunda Khade and he was waiting for that trolley to take away sand. He informed that, in the bed of that river, at least 6 to 7 persons including the present applicant were actually excavating sand. The present applicant is named in the FIR as informant has named the persons who were seen. The police party went to that spot. It is the case of the first informant that in the river bed, they saw all these persons including the present applicant with the help of headlights of their vehicles. They were excavating sand and were loading it in two tanker trollies. As those persons saw police party, they tried to run away from there. One of the trolley drivers drove the trolley on members of police party. All those persons ran away

from the spot. It is alleged in the FIR that, two brass of sand was taken away by them. On these allegations, the FIR is lodged.

3. Heard Mr. Goswami, Ld. Advocate for applicant and Ms. Kaushik, Ld. APP for the State.

4. Mr. Goswami, Ld. Counsel for the applicant submitted that the applicant is falsely implicated. The incident could not have taken place in the manner in which it is described in the FIR. It is impossible to believe that every one of them could have escaped in presence of the police party.

5. Ld. APP submitted that offenders could escape because of darkness. Considering all these submissions, it is clear that the FIR mentions the name of the present applicant as one of the suspects of the crime. At this stage, custodial interrogation of the applicant is necessary to find out his exact role in the offence. There are clear allegations against him. Therefore, anticipatory bail cannot be granted to the present applicant. The custodial

interrogation of the applicant is necessary. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)