

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

ANTICIPATORY BAIL APPLICATION NO. 1421 OF 2018

Santosh Tukaram Temkar ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. M. S. Mohite I/by Tushar Jadhav a/w Ateet Mhambray for Applicant.

Mr S. H. Yadav, APP for Respondent – State.

Mr. S. V. Ghadge, ASI, Alephata Police Station, Pune (Rural) present in Court.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 31, 2019.

P.C. :

. In Crime No. 135 of 2018 for an offence punishable under Sections 392, 353, 504, 506 read with Section 34 of the Indian Penal Code the Applicant is seeking pre-arrest bail.

2. Prosecution case is, Talathi who is a Complainant in the case in hand has detained vehicle (Truck) No. MH-17-AC-8455 which has been found transporting sand illegally. It is alleged by the prosecution that the Applicant who is the owner of the aforesaid vehicle threatened the public servant and removed the vehicle from their custody.

3. Mr. Mohite, the learned Counsel for Applicant submits that false implication of the Applicant is apparent from the narration as could be noticed in the complaint. According to him, the prosecution case is that the Applicant initially was not present on the spot, however, at the time of subsequent detention of the vehicle Applicant came along with accomplices who were the co-accused.

4. The learned Counsel submits that neither the vehicle used by the Applicant was reached at the spot at the time when the incident took place as mentioned in the complaint.

5. The learned APP submits that the driver of the Applicant and the vehicle is already released. There is sufficient material to infer *prima facie* involvement.

6. Having considered the rival submissions in the complaint, there is hardly details as regards the arrival of the Applicant on the spot of the incident, viz – his vehicle number, the details of accomplices and the time at which the Applicant reached. It is also not cleared as to whether the Applicant was informed by the driver who is present at the spot of incident. Investigation till date carried out does not reflect any substantive material so as to infer the presence of the Applicant on the spot of the

incident. There are no criminal antecedents. That being so, a case of grant of pre-arrest bail is made out. Hence, the following order.

ORDER

- (A) In the event of arrest in Crime No. 135 of 2018 for an offence punishable under Sections 392, 353, 504, 506 read with Section 34 of the Indian Penal Code the Applicant be released on executing PR Bond of Rs.25,000/- with one surety in the like amount.
- (B) The Applicant shall co-operate with the investigation.
- (C) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

7. The learned Counsel for Applicant assures that the vehicle in question will not be put to same use like the one noticed in the case in hand. The statement is accepted as an undertaking.

8. Anticipatory Bail Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)