

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

ANTICIPATORY BAIL APPLICATION NO. 2121 OF 2019

Shri Ajay Raghunath Vibhute ... Applicant.

V/s.
The State of Maharashtra ... Respondent.

**WITH
ANTICIPATORY BAIL APPLICATION NO. 2122 OF 2019**

Shri Vijay Shrimant Bhosale ... Applicant.

V/s.
The State of Maharashtra ... Respondent.

Mr. Anand S. Patil, Advocate, for the Applicant in both the ABAs.

Mr. S. H. Yadav, APP for the State in ABA No. 2121 /2019.

Mr. Prashant Jadhav, APP for the State in ABA No. 2122/2019.

(Mr. Sunil Kashinath Gaikwad, HC-358, Mangalvedha Police Station, Solapur, is present.)

CORAM : SARANG V. KOTWAL, J.

DATE : OCTOBER 01, 2019.

PC :

1 Both these applications are being decided by this common order because they arise out of the same FIR.

2 By these applications, both the applicants are seeking anticipatory bail in connection with the CR No. 310

of 2019, registered with the Mangalvedha Police Station, Dist. Solapur, under sections 353, 379, 506 r/w. 34 of the Indian Penal Code and under sections 9 & 15 of the Environment Protection Act, 1986.

3 The FIR is lodged on 10th July 2019 by complainant -Smt. Jayashri Kisanrao Kallale, who is working as Talathi of village Bhose. She has stated that on 9th July 2019, she was informed by Tahasildar of Mangalvedha that one truck carrying sand unauthorizedly was driven/ traveling from village Redde to Bhose village. The Tahasildar directed the informant to take action. Thereafter, Talathi Smt. Jayashri went to the spot. She observed that the truck bearing MH-45-1435 containing 3.5 brass sand, worth of Rs. 35,000/- was already intercepted by Police Patil-Subhash Bhuse and village Kotwal-Divakar Mane. The informant and others inquired with the driver of the truck. He gave his name as "Ajay Vibhute", who is the applicant-accused in ABA No. 2121 of 2019. Applicant -Ajay Vibhute informed the raiding party that he did not have requisite licence to transport the sand. He further informed that the sand was brought from Bhima Riverbed at village Shidhapur. He further informed that the truck belonged to one Vijay Bhosale, who is Applicant-accused in ABA No. 2122 of 2019. The raiding party asked the driver-Ajay Vibhute to take that truck towards Tahasildar's Office at

Mangalvedha. In the meantime, a four wheeler - MH-03-BE-8776 came there. One person got down from the said four wheeler and he introduced himself as Vijay Bhosale, who is the applicant in ABA No. 2122 of 2019. He obstructed the raiding party from taking away the truck. The informant and others told him that he should not interfere in performance of their public duty. The applicant-Ajay Vibhute did not allow the raiding party to take away the truck. The informant asked Kotwal - Divakar Mane to get in the truck but the driver-Ajay Vibhute threatened Kotwal-Divakar Mane. The applicant -accused Vijay Bhosale instructed the other applicant accused - Ajay Vibhute, the driver, to take away the truck from the spot. Thereafter, on his instruction the applicant -Ajay Vibhute took away the truck without permission of the raiding party. The informant and others conducted the panchanama of the spot. Then the informant met her superiors and on their instructions she lodged the FIR.

4 Heard Mr. Anand Patil, learned counsel for the applicants in both the applications, Mr. Yadav, learned APP for the State in ABA No. 2121 of 2019 and Mr. Jadhav, learned APP for the state in ABA No. 2122 of 2019.

5 Mr. Anand Patil, learned counsel submitted that the applicants had all the requisite permission for

transporting that sand. He further submitted that applicant - Ajay Vibhute, was given permission to use the truck, but there was no formal transfer of the ownership in his name. He submitted that said applicants did not obstruct the informant and others present on the spot and they were implicated because of the grudge held against them. He submitted that there is some permission granted by the government authority to carry sand but there was a mistake in the timing. Learned prosecutor submitted that the applicants did not have any requisite permission to carry that sand. Further the informant had taken photographs at the spot which clearly shows that the applicant - Vijay Bhosale was obstructing the raiding party members from carrying out their public duties.

6 I have considered the submissions advanced by the parties. I have particularly seen the two receipts, purportedly showing permission for carrying that sand. Exh. "C" annexed with the ABA No. 2121 of 2019 is the first permission. The first permission shows that the validity of the permission was obtained at 5.50 p.m. on 08.07.2019 and the second permission shows that the permission was granted at 3. 13 p.m. on 09.07.2019 for transporting the sand and it was valid till 2.28 a.m. on 10.07.2019. The incident had occurred at around 12'O clock on 9th July, 2019; at that point, there was no permission operating in

favour of either of the applicants for transporting that sand. There is no force in the submission of Shri Patil that both these applicants were having requisite permission to transport the sand. Learned APP specifically pointed out that the number plate on the truck was also fake. This is even more serious.

7 Considering these facts and the clear evidence, at this stage, custodial interrogation of the applicants is absolutely necessary. The high handed manner in which the applicants have acted does not entitle them to any protection from their arrest. Prayer for grant of anticipatory bail is rejected.

8 Both the applications are rejected.

(SARANG V. KOTWAL, J.)

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