

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.791 OF 2020

1. Raju s/o. Shivalal Pawar .. Applicants
Age. 39 years, Occ. Labour,
2. Haribhau s/o. Bhavrao Khandagle,
Age. 39 years, Occ. Labour,
R/o. At Post:Chimpanpirwadi,
Tal. Aurangabad,
Dist. Aurangabad.

VERSUS

The State of Maharashtra .. Respondent
Through Police Station Officer,
Harsul Police Station,
Tal. Aurangabad,
Dist. Aurangabad.

Mr.Ajinkya Kale h/f. Talekar and Associates, Advocate for
the applicants.
Mr.S.Y. Mahajan, APP for the respondent/State.

**CORAM : V.L.ACHLIYA,J.
DATED : 03.12.2020**

P.C. :-

01. The applicants apprehending arrest, in relation
to offence registered vide CR No.123 of 2020 with Police
Station, Harsul for committing offence punishable under

section 379 read with section 34 of the Indian Penal Code, have preferred this application, seeking pre-arrest bail.

02. Heard learned counsel for the applicants and learned APP. Perused the FIR and the order passed by the learned Additional Sessions Judge.

03. In brief, it is contention of the learned Counsel for the applicants that the applicants are agriculturists by profession and falsely implicated in the case at the behest of the informant. The allegations made in the complaint itself are not sufficient to attract the registration of offence under section 379 of the IPC. The complaint has been lodged on account animosity between officer of Mahamarg contractors and the applicants. In order to take vengeance, false complaint has been lodged alleging that they have committed theft of one brass of stone dust. It is submitted that the complaint has been lodged with malafide intention. The

informant had not seen the applicant committing theft of sand dust. The FIR has been lodged on the basis of hearsay information received by informant. It is further submitted that the applicants are law abiding citizens with no criminal antecedents. In order to conduct investigation, custodial interrogation of the applicants is not required. It is further submitted that the applicants have deposited Rs.30,000/- with the Court to show their bona fides. The value of property alleged to be stolen is not more than Rs.3000/-. In that view, no recovery to be made from them. The applicants have deep roots in the society. The arrest of the applicants would lead to humiliation and harassment for no offence committed on their part.

04. On the other hand, learned APP opposed the application with contention that there is strong prima facie case to connect the applicants with the commission of offence registered against them. It is submitted that in the facts and circumstances of the case, possibility

of applicants being involved in committing offences of similar in nature cannot be ruled out.

05. I have carefully considered the submissions in the light of overall facts of the case and nature of accusation made against the applicants. The aforesaid offence came to be registered pursuant to complaint lodged by one Santosh Jagannath Wahtule, Executive Liasioning Officer of Samruddhi Mahamarg. In the complaint filed, the informant has alleged that on 20.04.2020 the Supervisor – Pradipkumar informed the officials that the applicants have loaded stone dust in a trolley attached to a tractor without number and taken away the same without permission from the authority. Pursuant to the complaint lodged, the aforesaid offence came to be registered.

06. It is contention of the applicants that they are falsely implicated in the case. Both of the applicants claimed to be agriculturists by profession. In support

of the contention that they are agriculturists by profession, the applicants have filed affidavit supported by 7/12 extract. In order to show their bona fides, they have deposited Rs.30,000/- with the Court. It is nowhere case of the prosecution that the applicants are habitually indulged in the commission of such offences. So also, there is nothing to show that the applicants are having criminal antecedents. On the contrary, the 7/12 extract produced on record spell out that they are agriculturists by profession. There is no eye witness to the incident. No one has seen the applicants committing theft of stone dust. In that view, possibility of applicants being implicated in the false case cannot be ruled out. The grant of anticipatory bail to the applicants would not hamper ongoing investigation. I am, therefore, inclined to allow the application and pass the following order :-

O R D E R

- I) The application is allowed.

II) In the event of arrest of the applicants in CR No.123 of 2020 registered with Police Station, Harsul, for the offence punishable under section 379 read with section 34 of the Indian Penal Code, the applicants be released on furnishing bail in the sum of Rs.10,000/- (Rupees Ten Thousand) each with one surety in like amount, on following conditions:-

i) The applicants shall appear before the Investigating Officer on 06.12.2020 at 11=00 a.m. and cooperate in the investigation.

ii) The applicants shall not indulge in commission of offence of similar in nature.

iii) The applicants shall attend Police Station, Harsul once in a month till conclusion of proceeding against them.

iv) The applicants shall not indulge into any act amounting to pressurizing or threatening the prosecution witnesses.

III) In the event of breach of any of the conditions, the bail granted to the applicants would be liable to be cancelled.

IV) The amount of Rs.30,000/- (Rupees

(7)

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Thirty Thousand) deposited in this Court be transferred to the Trial Court, after filing of charge-sheet.

V) The amount deposited shall remain as deposit and same shall be subject to final outcome of the case against the applicants.

[V.L.ACHLIYA,J.]