

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.805 OF 2020

Shri Rajendra s/o Suklal Patil,
Age 55 years, Occupation Agri.,
R/o Bhongaon Tq. Sakri Dist.Dhule. **...Applicant**

VERSUS

The State of Maharashtra,
Through The Police Inspector,
Pimpalner Police Station, Dhule
District Dhule. **...Respondent**

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Advocate for Applicant : Mr. N. N. Desale
APP for Respondent : Mr. S. P. Tiwari.

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
16-10-2020**

**Date of Pronouncing The Order :
22-10-2020**

ORDER :

- 1) Applicant Rajendra Patil is apprehending his arrest in connection with Crime No.19 of 2020, registered with Pimpalner Police Station, Dhule District Dhule, for the offences punishable under Section 353, 379, 186 of the Indian penal Code and Section 48 (8) (1) (2) of the Maharashtra Land Revenue Code, 1966.
- 2) Heard learned Advocate Mr. N. N. Desale for applicant and learned Additional Public Prosecutor Mr. S. P. Tiwari for respondent-

State.

3) It has been vehemently submitted on behalf of the applicant that, the First Information Report has been lodged by Additional Tahsildar, Pimpalner stating that, when he was returning by his vehicle on 04-03-2020, he found a tractor with trolley on road. He inspected the same. He carried out the inspection and found that, it was filled with sand. He asked name of the driver and owner of the sand as well as tractor. The driver gave his name as Kapil Rajendra Borse and gave the name of the owner of the tractor as Rajendra Yashwant Borse R/o Bhongaon. The Additional Tahsildar then asked the tractor with trolley to be parked in Pimpalner Government godown premises and he started taking action for illegal excavation of sand and theft of the minerals. He had received threat call on his mobile stated to have been given by one Sandip Dattatraya Bhadane, and then he says that, when he was drawing panchanama, seven to eight persons came on motorcycle including the present applicant and threatened him. They asked that the tractor should be let free. Those persons raised chaos and by taking disadvantage of the same, said Kapil Borse took away the tractor with trolley filled with sand. Perusal of this First Information

Report would show that, the physical custody of the applicant is not required. No *prima facie* case was made against the applicant. The applicant is not the owner of the tractor. In fact, the applicant and his son has been falsely implicated. He deserves to be released on anticipatory bail.

4) Per contra, the learned Additional Public Prosecutor strongly objected the application and submitted that, the applicant and his son have tried to impersonate by giving false names. The real name of the applicant is Rajendra Suklal Patil. Though it appears that, his another surname is Borse, the applicant is absconding since the registration of the offence. They have committed offence of illegal excavating the natural resources belonging to the State. Their connection with sand mafia cannot be ruled out. In fact, the applicant was Deputy Sarpanch at one time of the village, yet he has created terror in the village and, therefore, nobody is disclosing his whereabouts. The tractor and trolley which was not even passed by Regional Transport Officer has been used in the commission of the crime just to conceal themselves. When the Government competent authority was taking action, yet the chaos intentionally raised by the present applicant, his relative Bhadane and other six to seven

persons has led the son of the applicant to take away the tractor, trolley with sand. Clear indications were given by the applicant that, he has taken the custody of the tractor with trolley and the sand and he would release the same only after the payment of fine amount. Now the said tractor has been seized on 04-04-2020. Statement has been given by one Limbaji Daulat Bhamre and he has produced receipt regarding sale of the tractor effected on 27-10-2019 between him and present applicant. It is sufficient to show that, the applicant is the owner of the tractor. If the applicant is now released on anticipatory bail, then it will give wrong message to the public at large especially when the sand mafias are involved. It would give boost to illegal excavation of sand which is rampantly going on.

5) At the outset it is required to be mentioned that, a specific question was asked to the learned Advocate for the applicant, as to whether the applicant is challenging the identity, thereupon he told that he is not challenging it. He is accepting that the person referred to as Rajendra Yashwant Borse is the applicant though the real name of the applicant is Rajendra Suklal Patil.

6) When the fact is stated by the learned Advocate for the applicant that the informant was referring to the applicant in his First

Information Report and also to the son of the applicant, it is now required to be seen as to whether the applicant has made out the case to grant anticipatory bail to him. There appears to be no enmity between the informant and the applicant. Applicant being Additional Tahsildar of Pimpalner Tahsil, was on duty and he has intercepted the tractor, trolley going ahead of his vehicle. It appears that, the son of the present applicant gave wrong information about his own name and also the name of the applicant. Further the chain of events those have been stated are that, when the tractor, trolley was brought within the premises of Government godown on the directions given by the applicant, and he was carrying out further legal procedure, he had received phone call from Sandip Bhadane who had then gave threat. It was stated by him that, the tractor belongs to his maternal uncle, it should be let go otherwise the informant should face the consequences. Thereafter, with the help of two panchas, godown watchman, the informant started the work of drawing panchanama. About seven to eight persons came and one of them introduced himself as Rajendra Borse, and here the identity is not denied. He disclosed that, he is the owner of the tractor and again another person who introduced himself as Sandip Bhadane, again started insisting that the tractor should be released.

They raised chaos and when the informant was asking them that, it would be released only after the fine is paid; said Kapil Rajendra Borse took disadvantage and took away the tractor, trolley with sand. *Prima facie* case is made out for the offence under Section 353 of the Indian Penal Code. Further, from the police papers it can be seen that, statements of witnesses have been recorded and the panchas who were called by the informant and other persons, are supporting the story in the First Information Report. As regards the ownership of the tractor is concerned, the receipt appears to have been seized which shows that, there was a transaction between one Nimbaji Dault Bhamre with the present applicant and he has sold the said tractor to the present applicant on 27-10-2019. It appears that, the entry regarding the change of ownership was not yet taken in the registration certificate book. The applicant has not stated that, after he had met the informant, he had given his real name. If that would have been disclosed, it would have been so reflected in the First Information Report. He has not come with a case that, he was not the person who had met informant on that day. Definitely there is room to believe that, he along with others had come to the place with the some such intention either not to allow the informant to do his legal work or to take away the vehicle. When in presence

of the government officers, who were taking the legal action, the son of the applicant had dare to take away the tractor with trolley and the sand, then this Court cannot keep its eyes shut regarding the social implications of releasing such person on anticipatory bail. It has been rightly pointed out by the learned Additional Public Prosecutor that the incidents of illegal sand excavation are increased and certain such anti social elements are attacking the police officers or revenue officers who dare to take action against such erring persons. When the law requires that, such officers should protect the Government property, then when they are taking action as contemplated, they should feel secure. Further it is reported by police officer that, the present applicant was Deputy Sarpanch and, therefore, he is definitely expected to abide the law. Therefore, definitely case is not made out to grant anticipatory bail to the applicant. Hence, the application is rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-