

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

18 ANTICIPATORY BAIL APPLICATION NO. 842 OF 2020

Wasim s/o Chotesab Peerzade
Age : 34 Yrs., Occ. Labour
R/o : Ward No. 2, Subhedari
Vasti, Shrirampur, Taluka :
Shrirampur, Dist. Ahmednagar

.... APPLICANT

VERSUS

The State of Maharashtra
Through Secretary Home
Department, Mantralaya,
Mumbai, Police Station
Kopergaon City, Taluka :
Shrirampur, Dist. Ahmednagar.

.... RESPONDENT

.....
Mr. Taher Ali Quadri, Advocate for Applicant.
Smt. R.P.Gaur, A.P.P. for Resp. - State.

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CORAM : V.L.ACHLIYA, J.
DATE : 01/12/2020
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ORAL ORDER :

1. The applicant apprehending arrest in connection with the offences punishable u/s 379, 511 of Indian Penal Code registered vide Crime No. 627/2020 with police station Kopergaon City, District Ahmednagar preferred this application seeking pre-arrest bail.
2. Heard learned counsel for applicant and learned A.P.P. representing the State. Perused the F.I.R.
3. On due consideration of the submissions

advanced in the light of overall facts of the case, nature of accusations made against the applicants, the role attributed to the applicant in commission of offence, I am of the view the applicant deserves to be extended protection u/s 438 of Cr.P.C.

4. In brief, it is the case of prosecution that one Ravindra Janardhan Nimbalkar whose tractor and trolley was seized in connection with offence of committing theft of sand had secured order from the Sub Divisional Officer, Kopergaon for release of tractor No. MH-17-AV-6630 attached with the trolley. Accordingly, said tractor and trolley was given in custody of Ravindra Janardhan Nimbalkar on 31/08/2020 at about 20.00 hrs. Later-on it was learnt that along with tractor and trolley released in favour of Ravindra Janardhan Nimbalkar one another trolley lying in the premises of Tahsil office was attached to said tractor and trolley and taken out of the premises of Tahsil office. On receipt of such information, the Tahsildar, Kopergaon instructed the informant to search the tractor and trolley. During their search they found the tractor bearing registration No. MH-17-AV-6630 was attached with two trolleys. Idris Iliyas Deshmukh i.e. accused No. 1 was plying that tractor and trolleys. One another person accompanied with Idris jumped from the tractor and ran away as soon as he saw the informant. During the course of investigation, the

accused No. 1 disclosed the name of person who ran away as Wasim Peerjade, the applicant, resident of Ward No. 2, Subhedari Vasti, Shrirampur, Taluka Shrirampur, District Ahmednagar.

5. In brief, it is the contention of learned counsel for applicant that applicant is innocent and falsely implicated in the case at the behest of Ravindra Janardhan Nimbalkar, who is real culprit. The police are trying to protect the real culprit. The applicant has been made scapegoat to shield the real culprit. It is pointed out that as per the case of prosecution, the tractor and trolley seized from Ravindra Janardhan Nimbalkar in a case involving illegal extraction and theft of minor mineral released on payment of fine amount. While taking the tractor and trolley released as per the order of Sub Divisional Officer, the another trolley lying kept in the premises allegedly attached with tractor and trolley owned by Ravindra Janaradhan Nimbalkar and taken away with intention to commit theft of said trolley. In that view, though the case of theft ought to have been registered against Ravindra Janardhan Nimbalkar, the owner of tractor bearing registration No. MH-17-AV-6630, the attempt has been made to protect him and implicate the applicant in the case of theft of trolley.

6. Learned A.P.P. opposed the application and submitted that there is prima facie case to connect

the applicant with the offence registered against him. Pursuant to the direction of the Court, the Investigating Officer has made enquiry with Ravindra Janardhan Nimbalkar about the ownership of tractor and trolley. He has stated that he has sold the tractor and trolley to present applicant. However, he has no documents to show that said tractor and trolley was sold to applicant.

7. Learned counsel for applicant on instructions make statement that applicant has never entered into transaction in respect of tractor and trolley owned by Ravindra Janardhan Nimbalkar and he has been falsely implicated in the case.

8. On due consideration of submissions advanced, I am of the view that applicant has made out case to extend protection u/s 438 of Cr.P.C. There is no evidence to establish the complicity of applicant in commission of offence. Except the case of prosecution that accused No. 1 has disclosed the name of applicant as a person present along with him, when the informant came on the spot, there is no iota of evidence to establish his involvement in the case of theft of alleged trolley. In fact as per case of prosecution, while taking the tractor and trolley released as per the order of Sub Divisional Officer, the accused Ravindra Janardhan Nimbalkar the another trolley lying in the premises attached to tractor and

trolley of Ravindra Janardhan Nimbalkar. In stead of proceeding against accused, the person who attached the trolley to tractor and trolley released as per order of Sub Divisional Officer, the case has been registered against driver of said tractor and applicant. In that view, the possibility of applicant being falsely implicated in the case to screen the real offender can not be ruled out. The trolley in question has been seized by police. No recovery to be made from the applicant. The grant of anticipatory bail to the applicant would not affect the on-going investigation. In absence of protection being extended to applicant, there is likelihood that he may be arrested, humiliated and harassed. I am, therefore, inclined to allow the application.

Hence, the following order is passed.

ORDER

[i] The application is allowed.

[ii] In the event of arrest of applicant Wasim s/o Chotesab Peerzade in connection with the offences punishable u/s 379, 511 of Indian Penal Code registered vide Crime No. 627/2020 with police station Kopergaon City, District Ahmednagar, the applicant be released on bail in the sum of Rs. 10,000/- [Rupees Ten Thousand] with one surety of like amount on condition that applicant shall attend the concerned police station as and when directed by

the Investigating Officer.

9. The application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP