

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

ANTICIPATORY BAIL APPLICATION NO.78 OF 2020

Sudhir Dagadu Surwse	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

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Mr.Prashant M. Patil, Advocate for the Applicant.

Mrs.Veera Shinde, APP for the Respondent – State.

N.S. Shete PN, Kalwan Police Station, Taluka Pandharpur,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 29, 2020.

P.C. :

Leave to amend to correct the prayer clause and title
of the Application.

2 This is an application for anticipatory bail in
connection with C.R.No.357 of 2019, registered with Karkamb
Police Station, Solapur Rural, for the offences punishable under
Sections 379 and 439 read with 34 of Indian Penal Code (“IPC”,
for short).

3 The case of the prosecution is that on receipt of information that some persons are unauthorizedly excavating the sand, hence, the complainant and others proceeded to the place of incident i.e. at Taradgaon, Taluka-Pandharpur at Bhima river, and, it was noticed that some persons were indeed excavating sand. On noticing police, the accused left the boat in river and had fled from the scene of offence by swimming from the river. The complainant learnt that the applicant is involved in excavating sand and committed theft of sand and the name of the applicant was impleaded on the basis of alleged information from farmers in the area. First Information Report ("FIR", for short) also indicate that the farmers informed that at the time of raid the applicant was involved in the excavation and he was the person who ran away from the place of incident.

4 Learned APP submitted that the statement of one witness is recorded which show the involvement of the applicant. I have perused the said statement. The said witness have stated that at about 9:50 p:m, on 30th November, 2019, the applicant was seen walking from the agricultural land of the witness. His cloths were wet. On questioning him, he did not answer. He left the village. He further stated that the applicant is excavating

sand and he has employed workers for the said work. He learnt that the applicant was excavating sand and noticing the police he ran away from the scene of offence by swimming. Thus, there is no evidence to show that applicant was indeed seen at the spot of offence at the time of raid. In the circumstances, benefit of Section 438 of Cr.P.C. can be given to the applicant.

5 Hence, I pass the following order:

:: O R D E R ::

- (i) Anticipatory Bail Application No.78 of 2020, is allowed;
- (ii) In the event of arrest of Applicant in connection with C.R.No.357 of 2019, registered with Karkamb Police Station, Solapur Rural, he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend the investigating officer on 5th to 7th February, 2020, between 10:00 a.m. to 12:00 noon, and, thereafter, as and when called for, till the filing of the charge-sheet;

(iv) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)