

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 180 OF 2020

1. Dinesh Patil
2. Subhash Ramrao Birajdar
3. Suresh Laxman Kadam
4. Babu Dattu Kadam

...Applicants

Versus

The State of Maharashtra

...Respondent

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Ms. Rati S. Sinhasane i/b Mr. Umesh R. Mankapure, Advocate for the Applicant.

Mr. S.H.Yadav, APP for the State-Respondent.

Mr. D.G. Kolekar (P.I.) – I.O. Umadi Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 22nd January, 2020

PC :

1. This is an application for anticipatory bail in C.R. No. 238 of 2019 registered with Umadi Police Station, Dist. Sangli for offences punishable under Sections 143, 147, 149, 353, 379 & 506 of Indian Penal Code and Section 4 & 21 of Mines and Minerals Act.

2. The First Information Report (for short 'FIR') was registered on 20th December, 2019. At the instance of additional Tahsildar it is alleged that information was received about excavation of sand activity is carried by some persons. The complainant and others

reached the spot. It was found that some persons were excavating sand from bed of river bor and loading the same on tractor/trolley. The tractor/trolley was belonging to Malhari Shinde. While taking away the sand from the spot raiding party reached the spot. Dadaso Chavan managed to run away with tractor. Malhari also fled from the place of incident. Subsequently, the tractor carrying sand was intercepted. Bharat Birajdar and Malhari Shinde were arrested. It is alleged that after the first part of incident reflected in the FIR, about 10-12 persons reached the place and they intimidated the complainant. They questioned him for initiating action. They tried to snatch the cell phone of the complainant. The accused caught hold of him and abused, he was threatened of dire consequences.

3. Learned counsel for the applicant submitted that there are no criminal antecedents against the applicants. The arrested accused were produced before the Court for remand and on first day they were granted bail. The applicants were not present at the time of excavating sand. They have no connection with the main accused.

4. Learned APP submitted that, role has been attributed to the applicants in the FIR. Their acts amounts to obstructing public servant in discharge of duty. Their custodial interrogation is necessary.

5. I have perused the FIR. On receipt of information the raiding party reached spot. Two persons managed to run away. The main accused Bharat Birajdar and Malhari Shinde instrumental in excavating the sand and owner of the tractor were arrested. For non compliance of Section 41 they were granted bail on the very first day. Police custody was refused. The role attributed to the applicant is that they had reached the place after the first incident. Although the role attributed by the prosecution is that they were involved in excavation of sand, They can be directed to cooperate with the investigation by attending Investigating Officer without subjecting them to police custody. There are no criminal antecedents against them.

6. Hence, I pass the following order.

ORDER

- i) Anticipatory Bail Application No.180 of 2020 is allowed;
- ii) In the event of arrest of applicants in C.R. No. 238 of 2019 registered with Umadi Police Station, Dist. Sangli, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs. 20,000/-, each with one or more sureties in the like amount;

- iii) Applicants shall attend Investigating Officer on 29th, 30th, & 31st January, 2020 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for till filing of charge-sheet.
- iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)