

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (BA) NO.87 OF 2020

(Mosam s/o Haribhau Moharkar ..vs.. State of Maharashtra, through PSO, Karandha)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.R. Vyas, Counsel for the applicant,
Shri N.B. Jawade, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 18-02-2020

Pursuant to first information report dated 17-1-2020 offences punishable under Sections 353, 379, 294, 147, 149, 183, 186 and 506 of the Indian Penal Code were registered against Amiraj Dongare and the present applicant Mosam Moharkar. The learned Additional Sessions Judge, Bhandara vide order dated 22-1-2020 released accused 1-Amiraj Dongare on bail and rejected the bail application preferred by the present applicant Mosam Moharkar.

2. I have perused the contents of the first information report and the case diary. I am satisfied, that at least at this stage of investigation, it appears that the accused Amiraj Dongare, who is released on bail, played a far significant and greater role in the incident. While it is true that the case of the prosecution is that applicant Mosam is the owner of the tractor which was transporting illegally excavated sand, the material on

record would suggest that it is Amiraj Dongare who arrived at the scene when the tractor was detained, who abused and manhandled the public servants and issued threats. Even according to the prosecution, it was Amiraj Dongare who handed over the key of the tractor to Mosam and asked Mosam to leave the spot with the tractor.

3. In so far as the present applicant is concerned, the submission of the learned Additional Public Prosecutor Shri N.B. Jawade is that the witnesses have consistently stated that they tried to prevent the applicant from leaving with the tractor, however, the tractor was coming towards them. Notably, the applicant is not even charged under Section 307 of the Indian Penal Code. *Prima facie* there is no material to suggest that the applicant deliberately did any thing with the intention of causing any physical harm to the public servants. In so far as offence punishable under Section 353 of the Indian Penal Code is concerned, as noted supra, the person who has played a greater role is already released.

4. In this view of the matter, I am inclined to allow this application. The applicant shall be released on bail for offences punishable under Sections 353, 379, 294, 147, 149, 183, 186 and 506 of the Indian Penal Code, registered with Police Station Karandha, on executing personal bond of Rs.15,000/- with one solvent surety of

like amount.

5. The applicant is directed to remain present for the purpose of investigation as and when called to him under written intimation by the Investigating Officer of the relevant crime.

6. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or any police officer.

7. The applicant to furnish bail before committal Court i.e. Judicial Magistrate, First Class, Bhandara.

JUDGE

adgokar