

1**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
NAGPUR BENCH, NAGPUR.**CRIMINAL APPLICATION [ABA] NO. 282/2020.**

Ajaj Ali Khan Shabbir Ali Khan.

-VERSUS-

State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.U. Bhuyar, Advocate for the Applicant.
Ms. T. Udeshi, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.**DATE : AUGUST 14, 2020.**

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. The applicant has reasonable apprehension of arrest in Crime No. 241/2020, registered at Amdapur Police Station, District Buldhana for the offence punishable under Sections 353, 379, 323 read with Section 34 of the Indian Penal Code.

3. Besides usual grounds, the applicant claimed bail by submitting that he was neither owner of the seized trucks, nor anything is to be seized at his hands. Moreover, it is submitted that as per directions

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issued by this Court while granting interim protection, he has cooperated with the investigating agency as and when called.

4. The State resisted the bail by submitting affidavit in reply. While putting stiff resistance, it is contended that the applicant is the main accused who has obstructed public servant while discharging official duty. The applicant caused to run away the trucks carrying illegal sand and as such facilitated the crime.

5. On 03.06.2020, Talathi of the concerned area has lodged report regarding occurrence. He stated that they have come across two trucks which were illegally carrying sand. On enquiry, the driver disclosed that he does not have any permit to carry the sand. At that time, applicant arrived by his Duster car bearing registration No. 7173, manhandled the informant Talathi, snatched keys and caused both trucks to leave the place. Though applicant argued that he is not the owner of both trucks, however, to establish the offence, it is not necessary that the preparator of carrying illegal sand must be the owner of the carrier truck. FIR was lodged soon after

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occurrence which bears name and registration number of the vehicle, which was used by the applicant at the relevant time.

6. Illegal transportation of sand has become an order of the day. In present case not only the applicant facilitated to take away the excavated sand, but, manhandled public servant who was discharging his duties. Direct role of applicant is evident from FIR itself. Though nothing is to be seized from the applicant, but, that is not the decisive factor to decide the fate of claim. There are various dimensions in which investigation has to be made. Having regard to all these facts, the applicant does not deserve for grant of pre-arrest protection. In view of that, Criminal Application stands rejected.

7. This order be communicated to the counsel appearing for the parties, either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

Rgd.

**Rakesh
Dhuriya** Digitally signed by
Rakesh Dhuriya
Date: 2020.08.14
17:53:13 +0530