

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.108 OF 2021

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| 1. | Shaikh Ansar s/o Shaikh Babamiya | | |
| 2. | Shaikh Farooq s/o Sharif Bagwan | ... | Applicants |

Versus

The State of Maharashtra			... Respondent
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Ms. Ashlesha Kulkarni h/f Mr. S. J. Salunke, Advocate for applicants.
Mr. N. T. Bhagat, APP for respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 16th February, 2021

ORDER :-

1. Both the applicants have been arrested in connection with Crime No.346 of 2020 registered with Pimpalner Police Station, District Beed for the offences punishable under Sections 379, 353, 332, 34 of Indian Penal Code and under Sections 48(7), 48(8) of Maharashtra Land Revenue Code, 1966. They have filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Ms. Ashlesha Kulkarni holding for learned Advocate Mr. S. J. Salunke for applicants and learned APP Mr. N. T. Bhagat for respondent – State. In order to cut short it can be said

that both of them have made submissions in support of their respective contentions.

3. It is to be noted that the FIR has been filed by Talathi Sajja Kurla, Mr. Sachin Dnyanoba Sanap contending that as per the orders passed by Tahsildar, he and another Talathi Sajja Kukkadgaon, Mr. Ajay Morale were on patrolling duty to monitor the theft of sand and transportation thereof. At about 8.30 p.m. on 21-12-2020, they found one Hyva coming from Umari. It was bearing number MH-23-AU-4597. After it was intercepted, they found five brass sand in the same. They asked the driver about the license, who told that he does not possess the license. He gave his name as Ansar. He avoided to give name of his employer/owner of Hyva, but ultimately he disclosed that the owner of vehicle is one Samsher Khan Feroj Khan. After a while, said Samsher Khan Feroj Khan and one more person came in a black Scorpio. When the informant asked him to come to Tahsil Office, Beed as they have caught his vehicle, said Samsher Khan abused and manhandled the informant by asking as to how he dared to intercept his vehicle and, thereafter, he along with the caught vehicle, fled towards Beed. Thereafter, the informant has lodged the report.

4. Applicant No.1 appears to be the driver of the said vehicle and applicant No.2 is also given as driver, but it appears that he was the

driver of the black Scorpio. As regards applicant No.2 is concerned, he had merely come at that spot by taking his employer at the said place and the possibility is that it was on the direction of the employer. Therefore, he had no role to play in the alleged crime. Now, as regards applicant No.1 is concerned, though he was allegedly caught with five brass of sand unauthorizedly, yet, when the employer had come to the spot and had uttered something to the informant who is the government officer, then it can be seen that he was acting as per the directions given by the employer/owner. Now, both of them have undergone necessary police custody. Therefore, their further physical custody appears to be not required. It would take long time for their trial to come to an end. Under such circumstance, the application deserves to be allowed. Hence, the following order :-

ORDER

- 1) Application stands allowed.
- 2) The Applicants viz., (1) Shaikh Ansar s/o Shaikh Babamiya and (2) Shaikh Farooq s/o Sharif Bagwan, who have been arrested in connection with Crime No.346 of 2020 registered with Pimpalner Police Station, District Beed for the offences punishable under Sections 379, 353, 332, 34 of Indian Penal Code and under Sections 48(7), 48(8) of Maharashtra Land

Revenue Code, 1966, be released on P. R. and S. B. of Rs.15,000/- each.

- 3) The applicants shall not tamper with the evidence of the prosecution in any manner.
- 4) They shall not indulge in any criminal activity.
- 5) Bail before Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm