

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 271 OF 2021

- 1) Shrikant s/o Shahu Gaikwad,
Age 31 years, Occ. Sub Divisional
Officer/ Sub Divisional Magistrate,
R/o. Tungat, Tq. Pandharpur, Dist.
Solapur, Presently residing at
Majalgaon, Tq. Majalgaon, Dist.
Beed.
 - 2) Laxman s/o Tatyasaheb Kale,
Age 30 years, Occ. Kotwal/Driver,
at S.D.M. Office, Majalgaon,
R/o. Majalgaon, Tq. Majalgaon,
District Beed.
- ... **Applicants.**

VERSUS.

The State of Maharashtra,
Through in charge Police Inspector,
Majalgaon City Police Station,
Tq. Majalgaon, Dist. Beed.

... **Respondent.**

...

Advocate for the Applicants : Mr. S. R. Sapkal, Senior Counsel.
PP for the Respondent/ State : Mr. D. R. Kale.

CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 19.03.2021.

PER COURT :

Present applicants have been arrested in connection with Crime No. 63/2021 dated 19.02.2021 for the offence punishable under Section 7 of the Prevention of Corruption Act. They have filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Senior Counsel Mr. Sapkal for the applicants and learned P.P. Mr. Kale.

3. It has been vehemently submitted on behalf of the applicants that perusal of the F.I.R. would show that the informant wanted to do some illegal activity and it can also be seen from the documents which have been produced by the applicants that already action was taken against the informant and his brother in connection with the illegal excavation of sand. Now in order to get favour it is shown that there is illegal demand of money by the present applicant no. 1 and it is stated that the said amount has been accepted on his behalf by applicant No. 2. The F.I.R. also shows that some meeting had taken place between the informant and the present applicant No. 1 on 12.02.2021 but then he had not lodged any report immediately. He went to the Anti-Corruption Office on 17.02.2021 and then it appears that verification panchnama was tried to be made on that day but it was informed that the present applicant No. 1 is not present in his office; it was decided to have raid on 18.02.2021. Thus there appears to be delay in taking alleged action. Even if we take the F.I.R. as it is yet the further physical custody of the applicants is not required for the purpose of investigation and therefore the applicants are ready to abide by the terms and conditions.

4. Learned Public Prosecutor has strongly opposed the application and submitted that the applicant No. 1 is Sub Divisional Officer/Sub Divisional Magistrate attached to Majalgaon. So Officer of his rank is involved in such crime. Perusal of the F.I.R. would show that initial illegal demand was Rs. 90,000/- per vehicle per month and threat was given that if that amount is not given then he will not be allowed to operate his vehicles for transportation of sand. Trap has been organized after due care has been taken for verification panchnama and then an amount of Rs. 65,000/-has been accepted by the applicant No. 2 on behalf of the applicant No. 1. There is evidence in the nature of voice recorder. Two panchas were present at the time of conducting raid who had seen the informant talking to applicant no. 2. The applicant No. 1 had told the complainant that the amount should be

given to applicant No. 2 and therefore involvement of both the applicants is clear in the crime. They do not deserve any sympathy.

5. There is no dispute of a fact that the applicant No. 1 was serving as a Sub Divisional officer/ Sub Divisional Magistrate with Majalgaon office and applicant no. 2 is stated to be Kotwal/driver. Further we will have to take the things as it is now and as per the F.I.R. the raid was conducted and applicant No. 2 has been caught with tainted money of Rs. 65,000/- by Anti Corruption Department. Now it is the prosecution story that, that amount was accepted by him for applicant No. 1. The complainant had made a complaint that he has vehicle Hyva which was used for transportation of sand. Though in the complaint he does not say the exact figure as how many Hyvas he is having but definitely they are more than one. He has stated that when he had gone to the office of applicant No. 1 on 12.02.2021 at that time applicant No. 1 demanded amount of Rs. 90,000/- per month for one vehicle and also stated that if he does not give that amount then he will not allow the complainant's vehicles to ply. But then it appears that he had not filed any complaint with the Anti Corruption Bureau till 17.02.2021. On 17.02.2021 he made complaint and then it is stated that the verification was tried to be made but it was informed that the applicant no. 1 was not available at the Office but then the raid has been conducted on 18.02.2021. There are documents which have been produced by applicant No. 1 on record wherein it appears that against the complainant certain action was taken by the revenue department when his vehicle was seized in connection with illegal excavation of sand. So also it appears that action was taken against his brother also in respect of such vehicle.

6. It appears that now substantial investigation is completed and therefore further physical custody of the present applicants will not be required. They are the Government Servants. Under such circumstance, they deserve to be released on bail on conditions. Hence following order.

7. Application stands allowed.
8. Applicant No. 1- Shrikant Shahu Gaikwad and applicant No. 2- Laxman s/o Tatyasaheb Kale, who have been arrested in connection with Crime No. 63/2021, registered with Majalgaon City Police Station, District Beed for the offences punishable under Section 7 of the Prevention of Corruption Act, be released on P.R. of Rs. 30,000/- each with two solvent sureties of Rs. 15,000/- each.
9. The applicants shall remain present before the Investigating Officer on every Sunday between 10 a.m. to 2 p.m. till filing of the charge-sheet.
10. The applicants shall not tamper with the evidence of prosecution in any manner.
11. They shall cooperate the investigation.
12. Bail before the Special Judge, Beed, under Anti Corruption Act.

(SMT. VIBHA KANKANWADI, J.)

mkd/-