

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 340 OF 2021

Krishna Sanchitrao Pacharne	...Applicant
Versus	
The State of Maharashtra and another	...Respondents

Advocate for Applicant : Mr. M. A. Tandale
APP for Respondent- State : Mr. N. T. Bhagat
Advocate for Respondent No. 2 : Mr. N. S. Ghanekar

...
CORAM : MANGESH S. PATIL, J.

DATE : 25.06.2021

PER COURT :-

Apprehending arrest in connection with Crime No. 16/2021 registered with Tembhurni Police Station, District Jalna for the offences punishable under Sections 286, 187, 188, 294 read with Section 34 of the Indian Penal Code and Sections 5 and 6 of the Explosive Substances Act, 1908, the applicant is seeking bail.

2. The First Information Report has been lodged by a Police Naik to the effect that while he was on petrolling duty in the field of one Ram Nandu Pawar, he found a tractor having necessary machinery for blasting together with 31 gelatin rods and 14 detonators with other material like battery, wire and

drill machine. The applicant and his son were also present there. On enquiry with them, they were unable to furnish any information. Accordingly the F.I.R. was lodged and the offence was registered.

3. I have heard the learned Advocate for the applicant, the learned A.P.P. and learned Advocate Mr. Ghanekar, appointed as *amicus curiae*. I have also perused the papers of the investigation. Going by the contents of the F.I.R., the possession of the alleged explosive substances is not being specifically attributed to the applicant. It reveals that the substance was found in a tractor and the applicant along with his son were present there.

4. Needless to state that, it could be owner of the tractor and the owner of the field who could have been the material witnesses. Though the tractor owner's son now informs that his father had sold it to the applicant in the year 2010, though it was not legally transferred in the name of the latter, no statement of the field owner has been recorded for the reasons best known to the Investigating Officer.

5. Assuming for the sake of arguments that the applicant owns the tractor in which the explosive substance was found

stored, still, there is *prima facie* no material to draw any inference that the substance was meant for being used for some unlawful purpose, which is a necessary ingredient for constituting an offence punishable under Section 5 of the Explosives Act, 1884. Going by the articles found at the spot, the machinery with the substance was suitable, in all probabilities, for digging well.

6. Assuming for the sake of arguments that even in the absence of an unlawful purpose, mere possession of the explosive substance would attract an offence punishable under Section 9 B read with Section 5 of the Explosives Act, 1884, the offence would be punishable up to two years and would, therefore, be bailable one.

7. It is in view of aforementioned facts and circumstances, the ad interim anticipatory bail granted to the applicant deserves to be confirmed.

8. The Investigating Officer is now making some grievance about non co-operation by the applicant and also about his pressurizing him and giving threats.

9. Suffice it for the purpose to bear in mind that the

informant himself is a police officer and there he and the Investigating Officer need not feel powerless, if at all the applicant is indulging in such illegal activities. Therefore, this ground being put forth by the Investigating Officer is not sufficient enough to refuse bail to the applicant.

10. The application is allowed. The ad-interim bail granted by the order dated 03.06.2021 stands confirmed on the same terms and circumstances, with further condition that he shall attend the concerned Police Station and shall co-operate the Investigating Officer on two consecutive Tuesdays starting from 29th June, 2021 between 10.00 a.m. and 11.00 a.m. He shall co-operate the Investigating Officer.

**(MANGESH S. PATIL)
JUDGE**

shp/-