

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.435 OF 2021

- 1) Ramkrushana s/o Bhaginath Kedar,
Age 24 years, Occupation Agriculture,
R/o Mungi Tq.Shevgaon Dist.Ahmednagar.
- 2) Digambar s/o Dattatray Bharat,
Age 20 years, Occupation Student/
Agriculture, R/o Hatgaon Tq.Shevgaon
Dist. Ahmednagar.

...Applicants

VERSUS

The State of Maharashtra,
Through Chaklamba Police Station,
Dist. Beed.

...Respondent

.....

Advocate for Applicants : Mr. V. A. Dhakne
APP for Respondent-State : Mr. N. T. Bhagat

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CORAM : SMT.VIBHA KANKANWADI, J.

**DATE OF RESERVING THE ORDER :
06-05-2021**

**DATE OF PRONOUNCING THE ORDER :
08-06-2021**

ORDER :

1. Present applicants have been arrested in connection with Crime No.56 of 2021 by Chaklamba Police Station Dist. Beed, for the offence punishable under Section 353, 332, 379, 143, 149, 504, 506 of the

Indian Penal Code, Section 21 (1) (2) of the Mines and Minerals (Development and Regulation) Act, 1957, Section 48 (7) (8) of the Maharashtra Land Revenue Code, 1966. They have filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. V. A. Dhakne for applicants and learned Additional Public Prosecutor Mr. N. T. Bhagat for respondent-State. In order to cut short it is stated that, both of them have made submissions in support of their respective contentions.

3. Perusal of the First Information Report which is lodged by Naib Tahsildar Kishor Rohidas Sanap would show that he along with other government servants were patrolling at about 07.00 a.m. on 10.03.2021. They found six wheeler tipper which was without any number within the jurisdiction of Dhagaspargaon Tq. Shirur Kasar. After the vehicle was intercepted they found four brass of sand in it. They asked the name of the driver who disclosed his name as Suraj Vitthal Dhakne. Upon inquiry he could not produce the royalty receipt. He refused to give name of his owner and, therefore, after informing the senior officers, the informant was taking the vehicle. Even the police station was contacted and the Police Inspector was requested to send police force. In the meantime, three motorcycles

came around 7.40 a.m. Two were bearing No.MH-16/CT-7940 and MH-16/ CC-5733 respectively. The third was not having any number, but on the number plate word "Sarpanch" was written. In all six persons arrived and out of that one Akshay Vitthal Dhakne after giving his introduction told that he is owner of tipper and then he started giving threat to the informant, Talathi and Kotwal who were the persons in the raiding party. Highhandedly the tipper driver started the tipper and when informant tried to stop the tipper, he took the tipper in high speed. When informant started to chase the tipper, at that time the motorcycle riders and pillion riders on MH-16/ CT-7940 and the motorcycle which is without number, were raising obstructions in the chase to the tipper and, therefore, he lodged the report. Important point is that the First Information Report does not state the name of the present applicants. When motorcycle numbers were given, learned Additional Public Prosecutor was directed to take instructions as to who is the owner of the said motorcycles. The report has been given. Present applicant No.2 is the owner of the motorcycle bearing No.MH-16/CT-7940 and applicant No.1 was the pillion rider. It has been stated in the remand report dated 23-03-2021 that both the applicants were found on the motorcycle when they were going towards their village

from Umapur and, therefore, they were arrested at Chaklamba Phata. At this stage, though it appears that the connection has been prima facie established between the present applicants and the crime, yet the identification parade appears to be not held. Further the role attributed to the present applicants is that they had not allowed the informant to chase the said tipper, therefore this act may be covered under Section 353, 143, 149 of Indian Penal Code. The applicants have undergone the necessary police custody and now nothing is required to be seized at their instance. Though theft of sand is now a days rampant and the sand Mafias have established their own world to destroy the environment only to earn huge profits, but as regards the role attributed to the present applicants is concerned, they appear to be not directly connected to the mining activities or its transportation or theft. Hence, taking into consideration various parameters those have been led down by the Hon'ble Supreme Court and this Court, on conditions, the applicants deserve to be released on bail. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Applicants Ramkrushana s/o Bhaginath Kedar and Digambar s/o Dattatray Bharat, arrested in connection

with Crime No.56 of 2021, registered with Chaklamba Police Station, Dist. Beed, for the offence punishable under Section 353, 332, 379, 143, 149, 504, 506 of the Indian Penal Code, Section 21 (1) (2) of the Mines and Minerals (Development and Regulation) Act, 1957, Section 48 (7) (8) of the Maharashtra Land Revenue Code, 1966, be released on P.R. of Rs.50,000/- each (fifty thousand) with two solvent sureties of Rs.25,000/- each (twenty five thousand).

- 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) The applicants to attend Chaklamba Police Station Dist. Beed on every alternate day in between 09.00 a.m. to 12.00 noon and maintain diary of their attendance duly countersigned by the Police Station officer, till filing of the charge-sheet.
- 6) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-