

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

ANTICIPATORY BAIL APPLICATION NO. 552 OF 2021

- 1) Nitesh Ramrao Kolhe
(Alleged Nitin Rambhau Kolhe as
named in F.I.R.)
Age 35 years, Occ. Agriculture,
R/o. Gondgaon, Tq. Pathri,
Dist. Parbhani.
 - 2) Vikas Vishwanath Naibal,
(Alleged Vilas Vishambar Naibal
as named in F.I.R.)
Age 36 years, Occ. Agriculture,
R/o. Gondgaon, Tq. Pathri,
Dist. Parbhani.
- ... **Applicants.**

VERSUS.

The State of Maharashtra,
Through Police Station Pathri,
District Parbhani.

... **Respondent.**

...

Advocate for the Applicant : Mr. Salunke Sudarshan J.
APP for the Respondent/State : Mr. V. M. Kagne.

CORAM : MANGESH S. PATIL, J.
DATE : 24.06.2021.

PER COURT :

Apprehending arrest in connection with Crime No. 153/2021, registered with Pathri Police Station, District Parbhani, for the offences punishable under Section 307, 353, 379, 143, 188, 269, 270 of the Indian Penal Code, under Section 48(7), 48(8) of the Maharashtra Land Revenue Code, under Section 51(b) of the Disaster Management Act, 1897 and under Section 2, 3 and 4 of Epidemic Disease Act, the applicants are seeking bail in the event of their arrest.

2. The F.I.R. has been lodged by a Public Servant alleging that when he

along with Sub Divisional Magistrate and other Officers had proceeded to a river bed for taking action against illegal excavation of sand, the owner and driver of the tractor namely the applicant No. 1 fled from the spot with the tractor and in the process even tried to run over the Sub Divisional Magistrate. It is alleged that apart from the tractor of the applicant No. 1 there were few other persons with their tractors and the names were disclosed by the villagers. The name of the applicant No. 2 was disclosed by the villagers as one of the persons who had fled from the spot with his tractor and the trolley.

3. After having heard both the sides for a while, when it was disclosed that this Court is not inclined to grant any relief to the applicant No. 1 on merits, his learned advocate, on instructions, seeks leave to withdraw the Application to his extent.

4 So far as the applicant No. 2 is concerned, accepting the allegations at their face value, the F.I.R. reads that his name was disclosed by the villagers. Apart from the inherent vagueness in the allegation, the papers of the investigation do not reveal statement of any villager to substantiate/corroborate this version. All the witnesses have only stated about having acquired knowledge about identity of the applicant No. 2 from the villagers. Meaning thereby that there is no direct witness identifying the applicant No. 2.

5 It is in view of such peculiar state of affairs, the applicant No. 2 is entitled to anticipatory bail more so when there are no criminal antecedents as well.

6 The Application is partly allowed. In the event of arrest of the applicant No. 2 in connection with Crime No. 153/2021, registered with Pathri Police Station, District Parbhani, for the offences punishable under Section 307, 353, 379, 143, 188, 269, 270 of the Indian Penal Code, under Section 48(7), 48(8) of the Maharashtra Land Revenue Code, under Section

51(b) of the Disaster Management Act, and under Section 2, 3 and 4 of Epidemic Disease Act, he shall be released on bail on executing personal recognizance for an amount of Rs. 20,000/- and furnishing a solvent surety in the like amount, subject to following conditions :

(a) He shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate him.

(b) He shall not tamper the evidence of the prosecution or influence the witnesses.

7. The Application to the extent of applicant No. 1 is dismissed as withdrawn.

(MANGESH S. PATIL, J.)

mkd/-