

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

2 ANTICIPATORY BAIL APPLICATION NO.613 OF 2021

- | | |
|--|----------------------|
| <ol style="list-style-type: none">1. Akash S/o. Apiraji Adkine,
Age-40 years, Occu-Agril,2. Vishnu S/o. Manchakrao Shinde,
Age-29 years, Occu-Agril,3. Bhaskar S/o. Vithalrao Shinde,
Age-27 years, Occu-Agril,4. Bhagwat S/o. Vithalrao Shinde,
Age-31 years, Occu-Agril,5. Ashok S/o. Gulalya Kale,
Age-29 years, Occu-Agril,6. Prasad S/o. Dnyanoba Shinde,
Age-27 years, Occu-Agril,
All R/o. Ravrajur, Tq. Palam,
Dist. Parbhani | ...APPLICANTS |
|--|----------------------|

VERSUS

The State of Maharashtra Through Police Station, Gangakhed, Dist. Parbhani	...RESPONDENT
--	----------------------

Mr. Sudarshan J. Salunke, Advocate for the applicants
Mr. V. S. Badakh, APP for the respondent/State

CORAM : SANDEEP K. SHINDE, J.

DATE : 16-07-2021

P. C.

. Heard learned counsel for the applicants and learned APP for the respondent/State.

2. Apprehending the arrest in connection with the crime No. 130 of 2021 dated 18-04-2021 registered with Gangakhed Police Station for the offences punishable under Sections 379, 34 of the Indian Penal Code and Section 48 (7)(8) of the Maharashtra Land Revenue Code, 1966, the applicants are seeking pre-arrest bail.

3. Subject offence relates to illegal excavation of sand from the river bed. On 11-04-2021 the Sub-Divisional Officer had noticed some persons at Ravrajur were extracting the sand from the river bed of Godavari with device, JCB. Although the Sub-Divisional had noticed this illegal act on 11th April, report was filed by Tahasildar on 18-04-2021. First information report stipulates that sand illegally extracted was stored in the fields of villagers. Report also stipulates, upon enquiry villagers disclosed applicants' complicity in the crime. On 07-07-2021 Mr. Sudhir Patil Sub-Divisional Officer was called upon to explain as to why did he report the incident of illegal excavation of sand belatedly. In response, Mr. Patil has filed affidavit and explained the delay. I am not satisfied with the explanation.

4. Be that as it may, I have perused the investigation record. Prima-facie there is no material against the applicant Nos. 2 to 6 to show their complicity in the crime. It seems the villagers had declined to co-operate the prosecution. Be that as it may, so far as the applicant No.1 is concerned, in June, 2018 the applicant No. 1 was found illegally transporting the sand and therefore, he was ordered to pay penalty Rs. 1,22,068/-, vide order dated 04-06-2018 passed by the Tahasildar, Palam. Additionally, on 12-06-2020 the applicant No. 1 was found indulging into the activity of extracting the sand without permit and therefore, his tractor trolley and tractor was seized. It appears the applicant No. 1 attempted to take away seized tractor trolley and tractor and the sand from the custody of the police without permission. On these premise, the offence came to be registered against the applicant No. 1 being crime No. 170 of 2021 under Section 379 of the IPC and Section 48 (7)(8) of the Maharashtra Land Revenue Code. In view of these facts, the application of the applicant No.1 is rejected.

5. In so far as the applicant Nos. 2 to 6 are concerned, in absence of any material on record to suggest their complicity in the crime, their application is granted subject to following condition. Hence the following order:

ORDER

i] In the event of arrest in connection with the crime No. 130 of 2021 dated 18-04-2021 registered with

(4)

aba613.21

Gangakhed Police Station for the offences punishable under Sections 379, 34 of the Indian Penal Code and Section 48 (7)(8) of the Maharashtra Land Revenue Code, 1966, the applicant Nos. 2 to 6 shall be released on bail on executing bond in the sum of Rs. 20,000/- [Rupees Twenty Thousand] each with one or more sureties in the like amount. The applicant Nos. 2 to 6 shall join the investigation as and when called by the Investigating Officer.

ii] The applicant Nos. 2 to 6 shall report the Investigating Officer on 19th , 26th of July, 2021 and thereafter on 2nd , 6th, 9th and 10th of August, 2021 and thereafter as and when called by the Investigating Officer.

6. The learned APP on instructions, assures this court that sand found in the field of villagers shall be confiscated and appropriate action shall be initiated against such field owners who were found in possession of stolen property i.e. sand.

7. List this application to ascertain the compliance of assurance on 26-07-2021 at 02.30 pm.

8. The application is disposed of.

[SANDEEP K. SHINDE, J.]