

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 730 OF 2021

1. Nitesh Vasanta Meshram,
Age : 30 years, occu. Agril,
R/o Ashta Tq. Mahur,
Dist. Nanded.
2. Sunil Baliram Rathod,
Age : 28 years, Occ : Govt.
Servant, R/o. Ashta (Tanda),
Tq. Mahur, Dist. Nanded ... Applicants.

VERSUS

The State of Maharashtra
(At the instance of Sindkhed
Police Station) ... Respondent.

...

Advocate for the Applicants : Mr. A. K. Bhosle
APP for the Respondent – State : Mr. A. V. Deshmukh

...

CORAM : V. G. BISHT, J.

DATE : 01st SEPTEMBER, 2021

PER COURT :-

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.073/2021, registered with Sindkhed Police Station, Taluka Mahur, District Nanded for the offences punishable under Sections 353, 379, read with Section 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 30.05.2021 applicant Nitesh Vasanta Meshram was found carrying sand illegally without a valid permit. The prosecution alleges that when the said applicant was asked to take the tractor to Tahsil Office, Mahur, said applicant and another applicant namely Sunil Baliram Rathod after entering into a verbal duel ran away and thus obstructed them from carrying their official duties.

3. Mr. A. K. Bhosle, learned counsel for the applicants, submits that allegations against the applicant are quite vague and do not attract the ingredients of Section 353 of the IPC in any manner. In such circumstances, application deserves to be allowed.

4. Mr. A. V. Deshmukh, learned APP for the Respondent - State, on the other hand, has opposed the submissions by contending that not only the present applicants used criminal force against the informant and others but had run away alongwith tractor having illegal sand. The investigation is in progress and, therefore, present application deserves to be rejected.

5. As far as the alleged use of criminal force is concerned, I am in agreement with learned counsel for applicants that the

necessary ingredients of Section 353 are not clearly specified in the FIR. Even otherwise since the said tractor was allegedly full with the illegal sand, how the informant and other staff members allowed them to go ahead is beyond comprehension.

6. In my considered opinion, the applicants have made out a *prima facie* case for consideration. I am thus inclined to allow application.

7. In view of above, I pass the following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants – Nitesh Vasanta Meshram and Sunil Baliram Rathod herein in connection with Crime No.073/2021, registered with Sindkhed Police Station, Taluka Mahur, District Nanded for the offences punishable under Sections 353, 379 read with Section 34 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- [Rupees Twenty Thousand only] each, with one or two sureties in the like amount.
- (iii) The applicants shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed off.

**(V. G. BISHT)
JUDGE**