

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

ANTICIPATORY BAIL APPLICATION NO. 953 OF 2021

1. Bhagwat s/o Vasant Jagtap ... **Applicant**
Age 33 years, Occu: Agri.
R/o Davalwadi, Tq. Badnapur,
District Jalna
2. Shivraj s/o Rajendra Deshmukh,
Age 27 years, Occu: Agri.
R/o At Post Chikhali, Tq. Badnapur
District Jalna.

VERSUS

The State of Maharashtra, ... **Respondent**
Through Police Inspector,
Badnapur Police Station,
Tq. Badnapur, District Jalna

Mr. Govind Kulkarni h/for Mr. B. S. Deshmukh, Advocate for applicants,
Mr. N. T. Bhagat, A.P.P. for the State.

CORAM : V. G. BISHT, J.

DATE : 21st September, 2021

ORDER:

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.226/2021 registered with Badnapur Police Station, District Jalna for the offences punishable under Sections 395, 353, 379, 323, 34 of the Indian Penal Code, 1860.
2. It is the case of prosecution that vehicles namely Hywa bearing Registration No.MH-21 BH-1777 and red colour JCB having Chassis No.NK500770LKKH20446 belonging to applicants were seized in

connection with illegal excavation of sand and were parked in the premises of Tahsil Office, Badnapur. Prosecution alleges that on 06.07.2021, at about 00.300 hours, five unknown persons, taking advantage of darkness and at the instance of the applicants, took away those vehicles shoving the informant and police Constable Jadhav when they tried to obstruct them. The informant accordingly lodged the report.

3. Mr. Govind Kulkarni, learned counsel for the applicants, submits that there is no overt and specific act on the part of these applicants so as to indicate that they committed any of the alleged offences. Moreover, the vehicles in question have already been seized by the Police and thus, there is no necessity of custodial interrogation.

4. Mr. N. T. Bhagat, learned A.P.P., on the other hand, would oppose the submissions by contending that said unknown accused committed the offence at the instance of these applicants. There being no merit in the application, the same is liable to be rejected.

5. First of all it may be noted that there is no dispute to the submission of learned counsel that the vehicles in question have already been seized by the Police. Above all, there is no material on record to suggest even remotely that those five unknown persons had acted in collusion with each other at the instance of these applicants. Thus, in my considered opinion, at the moment, I do not find any material on record to connect the present applicants with the alleged

offence. So also, since admittedly the vehicles in questions have already been seized by the Police, there is no question of custodial interrogation.

6. For the aforesaid reasons, I am inclined to allow the application. Hence, the following order.

O R D E R

In the event of arrest of the applicants in connection with Crime No.226/2021 registered with Badnapur Police Station, District Jalna for the offences punishable under Sections 395, 353, 379, 323, 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/- [Rs. Twenty thousand only] each, with one or two solvent sureties in the like amount.

7. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC