

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

906 ANTICIPATORY BAIL APPLICATION NO.1183 OF 2021

SHAIKH FEROZ SHAIKH HUSSAIN
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Saeed S. Shaikh, Advocates for the applicant.
Mr.S.B.Narwade, A.P.P. for respondent - State.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 18-11-2021

ORDER :

1. The applicant is apprehending arrest in Crime No.176/2021 registered with Basmatnagar Gramin Police Station, District Hingoli for the offences punishable under Sections 379 and 511 of the Indian Penal Code.

2. The case of the prosecution is that, the police were on patrolling. They found one pick-up Mahindra Bolero near the river. The accused were preparing to commit theft by excavating sand. On inspection of the vehicle, it was found that the articles meant for excavation of sand were lying in the said vehicle. The two persons managed to run away from the spot. The applicant is the owner of the said vehicle. Apprehending arrest, he preferred an application for anticipatory bail before the Sessions Court, which has been rejected.

3. From the tenor of the F.I.R., it appears that there was alleged attempt by the accused to carry the sand. Apparently, no excavated sand was found in the vehicle. There are no antecedents against the applicant.

4. Learned A.P.P. submitted that the vehicle found on the spot belongs to the applicant. The prosecution case is supported by the independent witnesses. The cell phone found at the place of the incident also belongs to the applicant. The applicant had applied before the concerned Court seeking custody of the vehicle which was found at the spot. Thus, there is evidence to establish the connection of the applicant with the vehicle containing the articles which were to be utilized for excavation of sand.

5. As stated herein-above, the excavation of sand was not carried out. The vehicle was seized from the place of the incident. It was allegedly containing certain articles which were to be used for excavation. Undisputedly the sand was not excavated nor it was found in the vehicle. The applicant was granted interim protection by order dated 22nd October 2021.

6. In the light of the aforesaid factual aspects, the applicant need not be subjected to custodial interrogation. Hence, the following order.

ORDER

- (i) ABA No. 1183 of 2021 is allowed.
- (ii) Interim order dated 22nd October 2021 is confirmed.
- (iii) In the event of arrest of the applicant in Crime No.176/2021 registered with Basmatnagar (Rural) Police Station, District Hingoli, the applicant be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iv) The applicant shall appear before the Investigating Officer on 23.11.2021, 24.11.2021 and 25.11.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (v) The application stands disposed of.

(PRAKASH D. NAIK, J.)

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