

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

910 ANTICIPATORY BAIL APPLICATION NO.1187 OF 2021

Revan Sida Thombre
Age : 46 years, occ : agri.,
R/o leet, Taluka Bhoom,
District Osmanabad.

Applicant

Versus

The State of Maharashtra

Respondent

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Mr. S.V. Deshmukh, Advocate for the applicant.
Mr. V.S. Badakh, A.P.P. for respondent - State.

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

DATE : 16-11-2021

ORDER :

1. Leave to amend to correct prayer clause "C" by changing name of Taluka as "Washi".
2. The First Information Report (for short "F.I.R.") has been registered with Washi Police Station, District Osmanabad under Section 379 of the Indian Penal Code and under Sections 4, 5, 21 (1) of the Mines and Minerals (Development and Regulation) Act vide Crime No. 258/2021.
3. The case of the prosecution is that, the complainant was directed to take action against illegal mining of minor minerals and

accordingly he had visited the spot on 28.08.2021. The accused was directed to produce necessary permission of stone crusher and mining permission. The applicant could not provide such documents. In Gut Nos. 80 and 81 it was found that minor minerals were crushed by using stone crusher. The stone material crushed was 40 Brass and 60 Brass. Hence, the F.I.R. was registered.

4. Learned Counsel for the applicant submitted that custodial interrogation of the applicant is not necessary. The stones / minor minerals, which were crushed, were seized. Stone crusher is also seized. The applicant had paid royalty for minor minerals. Reliance is placed on Challans dated 1st March 2021 and 8th February 2021 which indicate that royalty amount of Rs.1,00,000/- each was paid to the Revenue Department. It is further submitted that the applicant has no criminal antecedents. Although the applicant was present at the scene of the offence, he was not arrested, which shows that there was no need to arrest him. Visit of the complainant was on 28.08.2021 and F.I.R. was registered on 29.08.2021. As per the allegations in the F.I.R., mining site was found at Gut No. 81. The site gut land is owned by co-sharers and there is no mining as far as share of the applicant. The mining site was found to be filled with water and there is no question of mining on that site. The applicant used to purchase material from the farmers who have dug the well and material available for digging the well, was used for crushing. It is not alleged that mining was going on at the time when the complainant had visited the site.

5. Learned A.P.P. submitted that the applicant was not having any permission to use the stone crusher or excavating minor minerals. The applicant was present at the place of incident at the time of visit of the complainant. Panchnama of spot was recorded. It indicates that excavation was carried out at Survey No. 81B. Reference is also made to that water was found at the place of excavation and therefore, it was not possible to indicate as to what extent excavation of minerals was carried out by accused.

6. It appears that the applicant was not having permission for stone crushing. However, the receipts annexed to this application indicate that the applicant has paid royalty of Rs.2,00,000/- to the Revenue Department towards Minerals Concession Fees, Royalties in accordance with Minor Minerals Extraction Rules. Challan also indicates that the royalty was paid by Sairaj Stone Crusher, Nagewadi, Proprietor Reven Sidharth Thombre, Gut No.81B. Admittedly, stone crusher and the material found on the site has been seized by the respondent.

7. Considering the factual aspect of this matter, the applicant need not be subjected to custodial interrogation. Hence, I pass following order.

ORDER

- (i) ABA NO. 1187 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in connection with Crime No. 258/2021 registered

with Washi Police Station, District Osmanabad, 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.

- (iii) The applicant shall appear before the Investigating Officer on 22.11.2021, 23.11.2021 and 24.11.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (iv) The application stands disposed of.

(PRAKASH D. NAIK, J.)

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