

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL APPLICATION (BAIL) NO. 83 OF 2020**

Baburao P. Sawant Applicant
Versus
The Police Inspector, Mapusa
Police Station, Mapusa & Another Respondents

Mr. Amay Arjun Phadte, Advocate for the Applicant.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the Respondents.

Coram:- M.S. JAWALKAR, J.

Date:- 19th January, 2021

P.C.

Heard Mr. Amay Phadte, the learned Counsel for the applicant and Mr. Mahesh Amonkar, the learned Additional Public Prosecutor for the Respondents.

2. The present application is filed by the applicant for grant of anticipatory bail under Section 439 of Cr.P.C. The applicant states that on 05.12.2019 at around 8:01 hours, one Mr. Pratik Bhat Prabhu, P.S.I. attached to Porvorim Police Station visited the Chapora river at Colvale and arrested number of labourers and also attached their equipments

and/or tools used for alleged illegal sand mining along the river Chapora. The Investigating Officer, A.S.I., Mapusa Police station seized and attached Canoe bearing No. CHP/872/IC.

3. It is the contention of the applicant that he has no nexus to the alleged offence and the Canoe, which was attached, in fact, was not found in the waters of river Chapora, used for carrying out the alleged illegal activity of sand extraction.

4. Respondent no. 1 registered Crime No. 265/2019 dated 05.12.2019 at Mapusa Police Station under Section 379 read with Section 34 of IPC and Section 4 of the Goa, Daman and Diu Minor Mineral Concession Rules, 1985.

5. It is submitted by the learned Counsel for the applicant that notice under Section 41A of Cr.P.C. is served on the applicant and upon inquiry by the applicant, through his Advocate, with the P.I. of the Mapusa Police Station, it was informed to the applicant that the applicant was required to

be arrested. In view thereof, there is strong apprehension in the mind of the applicant that he might be arrested inspite of the fact that his presence in the custody is not at all required. It is submitted that the applicant is ready to co-operate with the Police and is also ready to attend the Police Station as and when required. It is also submitted that the applicant is a law abiding citizen.

6. It is also further submitted that the offence under the Goa, Daman and Diu Minor Mineral Concession Rules is bailable as well as compoundable in view of Rules 62 and 63 of the said Rules. The learned Counsel for the applicant also placed on record copy of the order passed by the learned JMFC, Mapusa, releasing the Canoe in question vide order dated 16.12.2020.

7. In this background and in view of the fact that the other accused are enlarged on bail and that the tools and the Canoe are also released by the order of the Court and as the applicant is ready to abide by any condition, it is submitted by the learned Counsel for the applicant that the applicant may

be enlarged on bail in the event of arrest.

8. Perused say of the I.O. produced by the learned Additional Public Prosecutor. It is submitted by the learned Additional Public Prosecutor that the custody of the applicant is required to recover the tools used for sand extraction so also to deter the applicant from committing similar crime and to carry out free and fair investigation etc.

9. After considering the rival contentions, it is clear that the tools and the Canoe are already released by the order of the Court. The applicant appears to be a fisherman, having roots in the society and is a permanent resident, residing at Rambhuvan wadda, Colvale, Bardez, Goa. The offence is registered in December, 2019. One year has already passed. Considering all these facts, I am inclined to grant anticipatory bail. The apprehension expressed by the learned Additional Public Prosecutor can be taken care of by imposing stringent conditions. Accordingly, I proceed to pass the following order:

ORDER

- (a) The application is allowed.
- (b) In the event of arrest in connection with investigation of Crime No. 265/2019 of Mapusa Police Station, the applicant shall be released on bail on execution of a P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (c) The applicant shall co-operate with the Investigating Agency and shall attend the Mapusa Police Station as and when required by the I.O.
- (d) The applicant shall not attempt to contact or influence the prosecution witnesses.
- (e) In the event of breach of any of the conditions, liberty to the prosecution to apply for cancellation of bail.
- (f) The application is disposed of in the aforesaid terms.

M.S. JAWALKAR, J.

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ESHA SAINATH

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