

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.566 OF 2021

1. Lakhan Shivaji Ghante
 2. Mahesh Tanaji Shinde
- Applicants

versus

State of Maharashtra

.... Respondent

.....

- Mr.Shriram S. Chaudhari, Advocate for Applicants.
- Ms.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.355/2020 registered with Pandharpur Gramin Police Station, on 31/12/2020 under sections 379 r/w 34 of the Indian Penal Code and under section 4, 4A and 21 of the Mines and Minerals (Development and Regulation) Act, 1957.

2. The FIR is lodged by Police Constable Punjab Indrajit Surve, attached to Pandharpur City police station. He has stated

that on 30/12/2020 at about 11.15 p.m. police received a secrete information about excavation of sand in Bhima river bed. The police went there. They observed that two pickup vans were used in excavation and transporting sand. They were asked to stop. As soon as the police reached, the drivers and their associates escaped in the darkness. It is mentioned in the FIR that the police made enquiries about the persons who had escaped from the scene and they came to know the names of four persons including the present Applicants. Both the pick up vans were searched and they were found to contain one brass of sand in all. On this basis FIR is lodged.

3. Heard Mr.Shriram S. Chaudhari, learned counsel for the Applicant and Ms.A.A. Takalkar, learned APP for the State.
4. Learned counsel for the Applicants submitted that the allegations in the FIR are vague. There is no basis for suspecting the present Applicant. The alleged enquiry with the people in the area naming the Applicants is vague.

5. Learned APP on the instructions of the Investigation Officer could not even point out names of the persons who had disclosed names of the present Applicants and other accused. Their statements are not recorded. She further submitted that the Applicants have antecedents and therefore anticipatory bail may not be granted.

6. I have considered these submissions. As rightly submitted by the learned counsel for the Applicants that the alleged enquiry with local people is completely vague. Till today since December 2020 for more than two months statements of such witnesses are not recorded. Even the names of the witnesses are not with the police. Therefore their allegations against present Applicants are absolutely vague. Just because there are similar antecedents, unless police have any material against them, in the present crime, anticipatory bail cannot be denied to them. In this background, I am inclined to protect the Applicants by way of an order u/s 438 of Cr.P.C. However, they

will have to attend the concerned police station and will have to cooperate with the investigation.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.355/2020 registered with Pandharpur Gramin Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The Applicants shall attend the concerned Police as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)