

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

CRIMINAL BAIL APPLICATION NO. 3601 OF 2021

Namdev Baliram Naiknavare	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Veerdhawal Deshmukh for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 14th OCTOBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 72/2021 registered with the Karkamb Police Station, Solapur, for the alleged offences punishable under Sections 353, 379, 143, 147, 149, 323, 504, 506 of the Indian Penal Code and under Sections 9 and 15 of the Environment Protection Act.

3 Perused the papers. On 18th March 2021 at about 3:45 a.m, the complainant-Chandrakant Kamble received a call from one Shivaji Jagtap that two tractors were proceeding towards the river, for the purpose of extracting sand. The complainant has alleged that on receipt of the said information, he informed the police patil-Ramchandra Kamble and asked him to accompany him to the spot, where the tractors had proceeded. The complainant and the police patil were joined by Vishnu Kamble and one Bittu Karvar and thereafter, by the Sarpanch's son-Ranjit Kamble. The complainant has alleged that armed with torch light, they proceeded towards the river bank alongwith the aforesaid people at 4:00 a.m, where they saw 2 tractors leaving the river-side. It is alleged by the complainant that they tried to block their way, however, the applicant and others fled away from the spot. It is alleged by the complainant that while fleeing from the said spot, they threatened and abused the complainant and others and even pushed some of them. It appears that while searching for the applicant, they went to the applicant's house, much later, where they found the said vehicle with sand worth Rs. 4,000/- in the same and accordingly, arrested the applicant and seized the vehicle.

4 Learned counsel for the applicant states that a false case has been foisted on the applicant and that no such incident as alleged, had taken

place. He submits that it is highly improbable that the applicant, after knowing that the police had seen him on the spot, would keep sand in the said vehicle for almost 6 months thereafter. Learned counsel relied on the remand report dated 18th September 2021, which is at page 22 of the application. He further submits that although, there is similar case registered as against the applicant, earlier in 2016, the order granting anticipatory bail shows that the applicant was granted protection, as there was no material to connect him with the alleged offence.

5 The applicant is in custody since 13th September 2021. It is pertinent to note that the incident is alleged to have taken place on 18th March 2021, whereas, the applicant was arrested on 13th September 2021 and it is alleged that sand was found in the said tractors after 6 months worth Rs. 4,000/-. *Prima facie*, there is some substance in the submission advanced by the applicant. The possibility of the applicant being falsely implicated, cannot be ruled out.

6 The applicant has *prima facie* made out a case for grant of bail. Accordingly, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

ORDER

- (i) The applicant be released on cash bail in the sum of Rs. 20,000/-, for a period of six weeks;
- (ii) The applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7 The application is allowed in the aforesaid terms and is accordingly disposed of.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.