

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

ANTICIPATORY BAIL APPLICATION NO. 36 OF 2021

Swapnil Rajendra Katkar Applicant
Versus
The State of Maharashtra Respondent

Mr. Narendra B. Patekar for Applicant.

Mrs. J. S. Lohokare, APP for State/Respondent.

Mr. S. L. Jadhav, API, (I.O.), Karmala Police Station, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 25th JANUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 791 of 2019 registered at Karmala Police Station, Dist. Solapur, under section 379 r/w. 34 of the Indian Penal Code (for short 'IPC') and under section 15 of the Environmental Protection Act.

2. Heard Shri. Narendra Patekar, learned counsel for the applicant and Mrs. Lohokare, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged on 06/11/2019 by Police Naik Firoz Attar, attached to Karmala police station. The police officer received a secret

information that some people were excavating sand in the river bed of Bhima river. The police staff arranged to conduct a raid. They went there. They saw that some persons were excavating sand with the help of two boats and excavation machines. As the raiding party went there, they jumped in the river and escaped. Out of them, one was apprehended at 2.00a.m. on 06/11/2019. His name was Manarul Shaikh. The raiding party took search of both the boats. The F.I.R. mentions that, both the boats were submerged in the water and were destroyed. The offenders had excavated 16 brass of sand worth more than Rs.16 lakhs. The arrested accused gave names of owners of the boats as Shekhar Phalke and Lalasaheb Katkar. On this basis, the F.I.R. is lodged.

4. The learned counsel for the applicant submitted that the applicant's name is not disclosed in the F.I.R. Even as per arrested accused, one of the boats belonged to Lala Katkar and not to the present applicant whose name is Swapnil @ Bhayya.

5. The learned APP is assisted by the Investigating officer who is present in the court. On his instructions, the learned APP stated that, said Lala is no more an accused, as report under

section 169 of the Cr.p.c. was submitted in his respect. On specific query about the involvement of the present applicant, the learned APP submitted that the applicant's name is transpired in the statement given by Lala Katkar on 22/12/2020. There is no other material against the present applicant.

6. I have considered these submissions. The remand report annexed to this application at Exh.B shows that Manarul Shaikh was arrested on 06/11/2019. For about one year there was no progress and on 02/12/2020 another accused Shekhar Phalke was arrested. The present applicant was shown as an absconding accused. I have perused the statement of Lala Katkar. Interestingly, this person was named by the arrested person, Manarul as the owner of the boat. Lala Katkar has stated that, he was told by Shekhar Phalke's brother Sudhir that the arrested accused Manarul had implicated Lala Katkar, but in reality the boat belonged to the present applicant. Thus, even this Lala Katkar, does not have personal knowledge as to whom this boat belonged to. There is absolutely no other material collected during the investigation against the present applicant and which is presented before me.

The alleged incident had taken place in November, 2019. For more than a year there is hardly any evidence collected against the present applicant. In any case, except statement made by Lala Katkar, which was also based on information given by some other person, at present, the Investigating Officer does not have any material against the present applicant. His name was not disclosed by the arrested accused. In this view of the matter, the applicant's complicity is not made out by the investigating agency. Therefore, he deserves protection of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 791 of 2019 registered at Karmala Police Station, Dist. Solapur, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)