

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2198 OF 2021

Yogesh Satish Babar	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Kuldeep Patil i/b Samadhan Kashid for the applicant.
Mr. A.R. Kapadnis, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 7th JULY 2021

P.C:-

1 On a complaint filed by the Talathi of Sonand on 2nd March 2021, an offence came to be registered with Sangola Police Station vide C.R. No. 234 of 2021 invoking sections 307, 313, 378 r/w Section 34 of the IPC and Section 9 and 15 of the Environment Protection Act.

2 The complaint by the Talathi is to the effect that he received information about transportation of illegally excavated sand and a team was constituted for tracing such excavation. On such information being received, the members of the said squad reached at the river bed behind Sonand Zilla Parishad School on their motorcycles. They

Tilak

witnessed some people filling up one Tempo and one tractor with sand, and when the members of the squad attempted to catch hold of them, they fled away. Some members of the team thereafter chased them by driving on the road from Sonand to Avandi where the tempo was found to have halted. The driver of the said tempo escaped immediately and the complainant started the tempo and proceeded towards Tahsil office.

At that very moment, one Scorpio car bearing no.MH-45-N-2765 crossed his path, from where four accused persons descended. He recognized three of them as belonging to Sonand village which included the Applicant along with two named accused and one unknown person. The allegation is, one of the accused pulled the complainant from the tempo and the other accused held him and the unknown person who was driving the Scorpio car was asked to drive the vehicle towards him with an intention to elimination. The other accused persons threw him on the track of the Scorpio, but somehow he managed to escape. This resulted into an injury on the left side of his body and all the four persons in the Scorpio left the spot.

.. The complainant was referred for medical examination which recorded a 'simple injury'. During the

course of investigation, the statements of other members of the squad came to be recorded who have narrated the same incident but the members of the squad do not speak of any intention of the accused persons to drive the vehicle towards him with an intention to kill him. The members of the squad state that the complainant was found lying on the left side of the Scorpio when it was being driven away. *Prima facie*, the statement of the complainant do not match with other members of the squad particularly qua the offence under Section 307 IPC, attempt to kill. No serious injury is sustained by the applicant. No doubt the alleged act of the accused persons indulging with the Officers on duty is serious one and they will meet the consequences being tried for the offence punishable under Section 353 as well as 379 IPC.

3 The learned APP vehemently state that the applicant has an antecedent to his credit, but when particularly asked whether the antecedent is of a similar nature being related to illegal excavation of sand, the answer is in the negative. The said antecedent therefore, will not stall his release on bail, on taking a *prima facie* view of the present crime and the allegations levelled in the said C.R. against him.

4 The investigation being complete and charge-sheet has been filed, the further incarceration of the applicant who has been arrested on 14th March 2021 is unwarranted. He is therefore, entitled to be released on bail on the following conditions :-

ORDER

- (a) The Applicant – Yogesh Babar, in connection with C.R.No. 234 of 2021 registered with Sangola Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

5 The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J