

Shambhavi
N. Shivgan

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 862 / 2020

Narayan Dattaram Jadhav

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr. Vishal Kolekar a/w Ms. Kasturi Ghadshi i/by Mr. Randhir A. Kale, Advocate for the Applicant.

Ms. Anamika Malhotra, Advocate for the Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : 7th JANUARY, 2021.

P.C. :-

1. Apprehending arrest on an accusations of having committed offences punishable under Sections 26 (1) (f), 41 (2) (b) read with Section 42 of the Indian Forest Act, 1927 (Act for short) and Section 56 of the Bio-diversity Act, applicant is seeking pre-arrest bail.
2. 1400 Kg. Kattha (extract of wood-Khair), a 'forest-produce'

within the meaning of Section 2 (4), (b) of the Forest Act was seized from a vehicle. Driver of the vehicle, revealed that, 'forest-produce' was supplied by the applicant, whereupon the subject crime came to be registered.

. Section 26 (1) (f) of the Act prohibits felling, gridling cutting off or burning any tree or strips off the bark or leaves from, or otherwise damage the same.

. In the State of Maharashtra, this act is punishable with imprisonment for a term which may extend to one year.

3. In the case in hand, "Kattha" is a forest-produce. Regulating the permission for conversion of Khair wood into 'Kattha' by traditional method (manual) and modern method (involving machines) has been considered by State Level Committee constituted as per the order dated 5th October, 2015 of the Honourable Supreme Court of India in Writ Petition No. 202 / 1995. Member Secretary, State Level Committee, Maharashtra State, thus issued an order, which reads as under;

"In view of the facts stated above and the decision of the State Level Committee, the Chief Conservator of

Forests (T), Kolhapur is hereby directed to issue permission to 91 applicants (list enclosed as annexure – II) for conversion of khair wood into katha on permit basis as per the provisions under chapter VIII(A) of Maharashtra Forest Rule, 2014 and the applicants shall be bound by the conditions stipulated in para 3.0 as above. The Chief Conservator of Forests (T), Kolhapur shall maintain required records of such conversion as per the above mentioned directions and report permit-wise compliance to the State Level Committee within stipulated time.”

4. In terms of aforesaid order, M/s Sou. Yashodha Kattha Industries, Ratnagiri is authorized, Kattha processing unit.
5. In the case in hand, applicant has purchased 1400 Kg. Kattha from Sou. Yashodha Kattha Industries as is evident from tax invoice dated 24th October, 2020. Thus to be recorded, that prima facie, the facts of the case may not attract Section 26 (1) (f) of the Indian Forest Act, 1927.
6. So far as, breach of Section 41 (2) (b), which prohibits moving

of 'forest-produce' without pass from an officer duly authorized to issue the same is concerned; Section 42 imposes penalty of imprisonment, which may extend to one year (as per Maharashtra Act 7 of 1985).

7. In the case in hand, the applicant has purchased processed product i.e. 'Kattha' from unit, which is authorized to process manufactured Kattha, from 'Khair'(wood).

8. As to whether for transporting such forest-produce i.e. Kattha purchased from, authorized unit, requires a pass from an officer duly authorized has not been clarified by the prosecution.

9. That even otherwise, applicant has no criminal antecedents.

10. Thus, in view of the facts of the case and the punishment prescribed for the breach of Section 41 in which imprisonment may extend to one year. Application is granted the pre-arrest bail on the following terms and conditions.

ORDER

(i) In the event of arrest of the applicant in Crime No.C-2/2020 registered with Kolad Range, Dist. Raigad, he shall be released on

bail on executing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

(ii) The applicant shall furnish his residential address as well as permanent address and contact details to the investigating officer forthwith;

(iii) The applicant shall cooperate in the investigation and report to the Investigating Officer as and when called;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

11. Application is allowed and disposed of accordingly.

12. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)

NAJEEB