

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2176 OF 2021

DNYANESHWAR SHIVAJI SOLANKHE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ghansham Jadhav, Advocate, for the Applicant.

Smt.Veera Shinde, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

DATE : 14th OCTOBER 2021

P.C. :

1 The present application has been moved by the applicant under Section 438 of the Code of Criminal Procedure apprehending arrest under Section 439, 379 read with 34 of the Indian Penal Code (IPC) and under Section 15 of the Environment Protection Act, registered vide Crime No.I-371 of 2020 with Police Station Bhigwan.

2 It is alleged that on 23rd September 2020 the applicant along with other accused was indulging in excavation near Village Takrarwadi. The police seized two boats and eight brass of sand. Offence accordingly came to be registered under the relevant sections of IPC and Environment Protection Act.

3 Mr.Ghansham Jadhav, learned counsel for the applicant submits that some of the accused have already been arrested and have been granted bail by the learned trial Court. Moreover, accused namely Sonya Balasaheb Sarak whose role is similar to the present applicant has already been granted anticipatory bail by the learned trial Court and therefore, on the ground of parity, the present applicant is also entitled to be given the benefit of pre-arrest bail.

4 Apart from this, the learned counsel submits that the boats in question and the sand have already been seized by the Investigating Officer and therefore, custodial interrogation of the applicant is not at all necessary. Even otherwise, the applicant is

ready to co-operate the investigating agency if directed by this Court.

5 Smt.Veera Shinde, learned APP, on the other hand, opposed the submissions by contending that the applicant and other accused were found illegally excavating sand. There are statements of witnesses showing the presence of the present applicant on the spot when the raid was carried out by the police. Investigation is in progress and therefore having regard to the nature of offence, the application deserves to be rejected.

6 I have carefully gone through the First Information Report (FIR) and as also the investigation papers submitted by the learned APP. As far as the FIR is concerned, the present applicant is shown to be the owner of the boat which was allegedly used in the excavation of the sand. I have also gone through the statement of the witnesses relied by the learned APP wherein it is specifically stated that the present applicant along with accused Sonya Balasaheb Sarak had jumped into the river in order to

make their escape good and to avoid the arrest at the hands of the police. However, the learned APP does not dispute that said accused namely Sonya Balasaheb Sarak has already been granted anticipatory bail by the learned trial Court. It is also not in dispute that that the role of said Sonya Balasaheb Sarak and the present applicant is on the same footing. I do not, therefore, find any reason not to extend the benefit of pre-arrest bail in favour of the applicant.

7 Even otherwise, everything has been seized and having regard to this peculiar fact, I do not find the necessity for custodial interrogation. I am, therefore, inclined to allow the application. Hence the following order :

ORDER

- 1 The application is allowed.
- 2 In the event of his arrest in Crime No.I-371 of 2020 for the offences punishable under Section 439, 379 read with 34 of the Indian Penal Code (IPC) and under Section 15 of the

Environment Protection Act with Police Station Bhigwan, the applicant be released on bail on executing P.R.Bond in sum of Rs.20,000/- with 1 surety in like amount.

- 3 The applicant shall attend Police Station Bhigwan as and when called by the Investigating Officer.
- 4 The applicant shall not tamper the prosecution evidence.
- 5 The application stands disposed off accordingly.

(V. G. BISHT, J.)

ARTI VILAS
KHATATE

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