

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

ANTICIPATORY BAIL APPLICATION NO. 2452 OF 2019

Bibhishan Chhagan Asbe	 Applicant
versus	
The State of Maharashtra	 Respondent

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Mr. S. P. Rajepandhare, Advocate for Applicant.
Smt. J. S. Lohokare, APP for the State/Respondent.

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CORAM : SARANG V. KOTWAL, J.
DATE : 16th FEBRUARY, 2021

P.C. :

1. This is an application for anticipatory bail in connection with C.R.No.543/2019 registered with Pandharpur Taluka Police Station, Pandharpur, Dist. Solapur the offences are registered under Sections 353 and 379 read with 34 of Indian Penal Code, 1860 and under Sections 9 and 15 of the Environment Protection Act, 1986.

2. The prosecution case is that on 15th August 2019 information was received that sand was being excavated unauthorizedly and being transported on a road near Shrikrishna

temple in Gopalpur. At about 8.30 p.m., informant and others proceeded to the place of incident. Four persons were found unloading the sand from a pick up van. Two of them were apprehended at the spot and two others ran away taking advantage of darkness.

3. Heard Mr. S. P. Rajepandhare learned Counsel for the applicant and Smt. J. S. Lohokare, learned APP for the State.

4. Learned Counsel for the applicant submitted that he is a labourer and has nothing to do with theft of sand. The pick up van was not his and he is not instrumental in either excavating or transporting sand.

5. Learned APP submitted that the applicant had attended the concerned Police Station after he was protected by the interim order. But he has not really co-operated with the investigation.

6. On the basis of report given by the Investigating Officer to Public Prosecutor's Office, she submitted that there are no antecedents mentioned against him in the report.

REASONS

7. The applicant was protected by an interim order dated 13th November 2019. After that, he has attended the Police Station. In spite of the investigation, no further material is found against him. The only reason sought for his custody is that the police wanted to know about the identity of the accused No.4. Beyond this, there is no material against the present applicant. The allegations of commission of offence under Section 353 are not directed against him. They are against the accused who were apprehended and those who had obstructed the Police Officers while apprehending them.

8. As per the prosecution case, two of the persons including the present applicant had run away from the spot. The applicant is on interim protection since November 2019. Therefore, I do not see any propriety in permitting his custodial interrogation in the backdrop of allegations and material available against him. The applicant can be protected by an order of anticipatory bail.

9. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.543/2019 registered with Pandharpur Taluka Police Station, Dist. Solapur, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)