

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.290 of 2021

Tejrao s/o Ashok Lone

vs.

State of Maharashtra, Range Forest Officer, Jalgaon Jamod, District Buldhana

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

Shri H.R. Gadhia, Advocate for the Applicant.

Mrs. Shamsi Haider, A.P.P. for the Non-Applicant/State.

CORAM : S.M. MODAK, J.

DATE : 1st JULY, 2021.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

02] Heard Shri Gadhia, learned Advocate for the applicant and Mrs. Haider, learned A.P.P. for the non-applicant/State.

03] This Court has already granted ad interim protection from arrest as per the order dated 07/05/2021.

04] The learned Advocate for the applicant argued vehemently in support of confirmation of the said order. He pointed out certain lacunae and merits, which favour the applicant. Whereas, the learned A.P.P. pointed out, how the custodial interrogation of the applicant is required. The prosecution has offered a version about seizure of 8 kattas (bags) of Salai Gond (Gum) of forest produce from Tata Indica Car (of which the applicant is not owner) and one mobile handset left

unattended by this applicant. They were seized on 12/04/2021 at about 05:00 a.m. when the forest officials were patrolling on a road coming from Bhingara to Nimkhedi. The weight of that Salai Gond was 265 kgs. A forest offence was registered.

05] As against this, the applicant has a different version to offer. According to him, he has lodged complaint on 09/07/2020 (earlier to F.I.R.) to the Deputy Conservator of Forest, Buldhana. The applicant was authorised to part away Rs.80,000/- in cash and a cheque of Rs.70,000/- issued by him in favour of one Ganesh Purushottam Patil. Certain forest officials have been blamed for that. He comes with a theory that due to this enmity, he has wrongly been roped into the present offence.

06] My attention is brought to the particulars in the reply filed by the Forest Officer addressed to the Court of Additional Sessions Judge, Khamgaon on 26/04/2021. According to the learned Advocate for the applicant, the forest officials have identified the present applicant being the person, who ran away from the spot. Whereas, in the reply, particularly paragraph 3, there is a reference how the forest officials have realized about the involvement of the present applicant. When the mobile handset was left at the spot, one phone call came and it was received by the forest officials. Thereafter, they came to know about the involvement of the present applicant. According to the learned Advocate for the applicant, if these particulars are considered, it *prima facie* falsifies the identification by the forest officials of the present applicant as referred in the reply, dated 26/04/2021.

07] According to him, as the forest produce, the vehicle and the mobile handset are already seized, there is nothing to be recovered. So far as the provisions of the Indian Forest Act are concerned, according to the learned Advocate for the applicant, these offences are punishable with a maximum punishment of one year and as per the Maharashtra Amendment, Section 65-A of the Indian Forest Act, the offences under Section 26 are made non-bailable. To support his contention about confirmation, he also referred to Section 68 of the Indian Forest Act. It empowers the Forest Officer to compound the offence.

08] At this juncture, the learned Advocate for the applicant requested for withdrawal of the application on the basis of the instructions received from his client with a request to continue the interim protection for a week, as the applicant is desirous of moving application for regular bail before the concerned Court.

09] In view of above request, the application is disposed of as not pressed. The applicant is at liberty to move the concerned Court for regular bail and the concerned Court to decide the application as per its own merits.

10] The interim protection granted on 07/05/2021 be continued for seven days from today.

JUDGE

**sandesh*