

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

CRIMINAL APPLICATION [ABA] NO. 406/2021.

Avinash Gopal Paisode and another.

-VERSUS-

The State of Maharashtra, through P.S. Nandura, District Buldhana.

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

Court's or Judge's Orders

Shri R.D. Karode, Advocate for Applicants.
Shri A.M. Deshpande, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : SEPTEMBER 15, 2021.

Heard.

2. In anticipation of arrest in Crime No.153/2021 registered with Nandura Police Station, District Buldhana for the offence punishable under Sections 143, 147, 149, 353, 332, 186, 189, 504 of the Indian Penal Code, Section 7 of the Criminal Amendment Act, 1932 and Section 48[7] of the Maharashtra Land Revenue Code, 1966 applicants have prayed for pre-arrest bail.

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3. The State has resisted the bail by filing affidavit in reply. At the instance of report lodged by the Tahsildar, the aforesaid crime came to be registered.

4. It is the prosecution case that on receipt of secret information about illegal sand excavation, the Tahsildar and Circle Officer went to the concerned place and found that one Tractor was loading excavated sand. On enquiry with the driver of the Tractor, he expressed his inability to show requisite pass or permit. However, the Tractor driver telephonically called the owner of the tractor, who arrived on the river bed within short time. Thereafter, the tractor owner namely Paisode, has threatened the government officers of dire consequences and forcibly took away the tractor from the spot. The tractor owner was accompanied by 7-8 persons at the time of occurrence.

5. So far as applicant no.1 Avinash Gopal Paisode is concerned, his name is mentioned in the

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first information report with specific role. The prosecution alleges that he is owner of the tractor, which is not denied by applicant no.1. It is apparent that illegal sand excavation was going on by the tractor owned by applicant no.1 Avinash and he also manhandled public servants while discharging their official duties. The entire incident shows total disregard to public authority. The matter requires investigation and therefore, applicant no.1 Avinash Gopal Paisode is not entitled for grant of pre-arrest protection.

6. As regards applicant no.2 – Rahul Gajanan Rahane is concerned, except use of two wheeler owned by him in the occurrence, there is no material. There is no reference about applicant no.2 in the first information report. As per the prosecution case, the tractor owner Avinash Paisode along with some others came to the spot by two motor cycles of which one is owned by applicant no.2 Rahul. Only on the basis that the said vehicle was registered in the name of Rahul,

he has been arrayed as accused. Having regard to the nature of accusation against him, his liberty can be protected by directing him to facilitate the course of investigation. In view of that following order is passed.

- (i) Criminal Application is partly allowed and disposed of.
- (ii) Criminal Application as regards applicant no.1 – Avinash Paisode is rejected.
- (iii) As regards applicant no.2 Rahul Gajanan Rahane, the interim order dated 06.06.2021, is hereby made absolute on same terms and conditions, with further direction to applicant no.2 to continue to attend the police station as already ordered, till the filing of charge sheet.

Rgd.

JUDGE