

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

CRIMINAL APPLICATION (ABA) NO. 447 OF 2021

Ravi s/o Ramkrishna Godbole,

..vs..

State of Maharashtra, through Range Forest Officer, Sawarpani, Tq. Anjangaon Surji, Dist. Amravati.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.R. Agrawal, Advocate for applicant.
Shri S.D. Sirpurkar, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : DECEMBER 02, 2021

Heard.

2. At the instance of Preliminary Offence Report dated 21/04/2018 lodged by forest guard, crime was registered with Range Forest Officer, Sawarpani, Taluka Anjangaon Surji, District Amravati for the offence punishable under Sections 26(1)B(4), (D) (G)41, 42(2) and 63 of the Indian Forest Act, 1927. It was alleged that the applicant was unauthorizedly excavating earth from the forest land namely Sawarpani Reservoir. The State resisted bail by filing exhaustive reply.

3, The applicant's learned counsel has pointed out that in the vicinity Gaurkheda Dam was to be constructed. A decision was taken by the authority to excavate the land from Sawarpani Dam for using it to the another Gaurkheda Dam project. The relevant papers are produced on record. It is pointed out that

the concerned land is owned by Irrigation Department since 1970. Relevant notification is produced. Though it is alleged that the applicant has constructed road however, it is shown that the road was in existence since long. The motor vehicle used for excavation was came to be seized. The applicant has produced an order dated 28/07/2021 passed by the Range Forest Officer holding that forest offence has not been made out hence refused confiscation proceeding. Prima facie the applicant has satisfied that there is no substantial material against him. Moreover alleged offences are punishable with imprisonment which may extend up to two years. No valid reason is pointed out to have custody of applicant. In view of that applicant's liberty can be protected by directing him to join the course of investigation, hence following order:

(a) Application is allowed.

(b) Ad-interim order dated 17/07/2019 is hereby made absolute upon same terms and conditions.

(c) The applicant shall continue to attend police station till filing of final report or for the period of 60 days whichever is earlier.

(d) Application is disposed of.