

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 ANTICIPATORY BAIL APPLICATION NO.64 OF 2022

KAZI ZAHURUDDIN S/O KAMRODDIN

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.G. Kawade, Advocate for the applicant

Mr. V.M. Karpe, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 04th FEBRUARY, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.248/2021 dated 05.07.2021 registered with Gondi Police Station, Dist. Jalna, for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.G. Kawade for the applicant and learned APP Mr. V.M. Kagne for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of the First Information Report lodged by one Abhijit

Anilrao Deshmukh, who is serving as Talathi with Sashta Pimpalgaon, Dist. Beed would show that he along with Tahsildar, Circle Officer and other persons and the panchas went at about 9.00 a.m. on 05.07.2021 near river Godavari, within the jurisdiction of Sashta Pimpalgaon and Rakshasbhuvan. They found 14 Tractors without having any number were in the process of filling sand, which was illegally excavated through labours. After those persons saw the revenue officers, they fled with the Tractors. They went towards Rakshasbhuvan and then the informant's committee made inspection of the place from where the land was excavated. It was found that 54 brass of land was excavated from Gat No.444 and 446. Talathi asked panchas, as to who were those persons, then, they gave name of 14 persons. It is then stated that those persons had unloaded the said sand at three places in Rakshasbhuvan. Name of present applicant has been taken at Sr.No.4.

4 It will not be out of place to mention here that five persons, who were amongst those 14 persons, have been released on anticipatory bail by this Court on 12.10.2021 in A.B.A. No.1131 of 2021, 1132 of 2021 and 1041 of 2021 and on 07.09.2021 in A.B.A. No.978 of 2021.

5 It is to be noted that in the First Information Report name of the panchas have not been stated and if we consider the document styled as

‘panchnama’ dated 05.07.2021 allegedly executed by Tahsildar, it gives name of six persons as panchas. It has many erasers. The story that has been stated appears to be either incomplete or concocted. When six panchas and about 4-5 revenue officers were present, how none of them could go near those persons and allowed 14 Tractors with Trolleys flee away from the spot. Police paper does not contain panchnama of the spot, from where the sand was allegedly recovered. It is merely stated that those persons had unloaded the sand at three places in the jurisdiction of Rakshasbhuvan and, therefore, it can be definitely said that intentionally everything has been kept vague. With this kind of evidence and also the fact that co-accused have been granted anticipatory bail by this Court, the applicant deserves to be released on anticipatory bail.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicant viz. Kazi Sahuroddin Kamroddin, in connection with Crime No.248/2021 dated 05.07.2021 registered with Gondi Police Station, Dist. Jalna, for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code, 1860, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two

solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicant shall not indulge in any criminal activity nor he should tamper with the evidence of the prosecution, in any manner.

4 Applicant shall cooperate with the investigation.

(Smt. Vibha Kankanwadi, J.)

agd