

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.151 OF 2022**

SANTOSH MANOHAR BANGAR  
(REFERRED IN F.I.R. AS SANTOSH MANOHAR BANKAR)

VERSUS

THE STATE OF MAHARASHTRA

...  
Mr. A. P. Gaikwad, Advocate for applicant.  
Mr. A. M. Phule, APP for the respondent – State.

...

**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 08.03.2022**

**ORDER :-**

. Applicant is apprehending his arrest in connection with Crime No.567 of 2021 registered with Pathri Police Station, Dist. Parbhani for the offence punishable under Sections 353, 379, 506 read with Section 34 of the Indian Penal Code and under Section 48(7), 48(8) of the Maharashtra Land Revenue Code, 1966.

2. Heard learned Advocate Mr. A. P. Gaikwad for the applicant and learned APP Mr. A. M. Phule for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that it has been lodged by Shivaji Bharkad, Sub Divisional Officer, Hadgaon Tahsil, Pathri, Dist. Parbhani. He was on duty on 16.12.2021 along with Mrs. More, Tahsildar Pathri and they went to *Ghat* i.e. river side to make inspection in respect of sand. They found one tractor with trolley. The person, who was present there gave his name as Sandip Solanke and after making inquiry, as to whether he is having any license, he gave answer in the negative. Tahsildar started executing panchanama, however, when that person was trying to flee away, he gave threat to Tahsildar and thereafter, fled away. The informant and Tahsildar appears to have gone away from the spot and again came in the next day morning. They made inspection and found that about 10-15 brass of sand was excavated. It is then stated that when Tahsildar had made inquiry with the driver of the tractor, he told that he has done the said act on the say of present applicant and accordingly, the FIR has been lodged. Thus, it is to be noted that the said statement was made by the co-accused to the Tahsildar and then revealed the name of the present applicant. That statement cannot be taken as inadmissible in evidence, because it was stated to have been made to Tahsildar, who is not a police officer as contemplated under Criminal Procedure Code. Further, the said contents of the FIR would show that acts of threatening or deterring the public

servant was made by co-accused – Sandip Solanke and not by present applicant, who was, in fact, not present at the spot. So also, offence under Section 506 will not attract to the present applicant. His involvement may be under Section 379 read with Section 34 of Indian Penal Code, but for that purpose, the physical custody of the applicant is not required. The police papers would show that the machinery used in the commission of crime appears to have been seized, though the sand allegedly stolen has not been seized. The panchanama and statements of witnesses have been recorded and, therefore, the physical custody of the applicant may not be required. This Court had granted ad-interim protection to the applicant by order dated 17.02.2022 and it deserves to be confirmed. Hence, the following order :-

### **ORDER**

- I) Application stands allowed.
- II) The ad-interim protection granted earlier by this Court vide order dated 17.02.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicant – Santosh Manohar Bangar, in connection with Crime No.567 of 2021 registered with Pathri Police Station, Dist. Parbhani for the offence punishable under Sections 353, 379, 506 read with Section 34 of the Indian Penal Code and under Section 48(7), 48(8) of the Maharashtra Land Revenue Code, 1966, he be released on P. R. Bond of

Rs.30,000/- with two solvent sureties of Rs.15,000/- each, if not already released.

III) The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence, in any manner.

IV) He should cooperate with the investigation and shall remain present before the Investigating officer on every Monday and Thursday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.

**[SMT. VIBHA KANKANWADI, J.]**

scm