

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.248 OF 2022

SHAIKH RAHEEM S/O SHAIKH SALEEM
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Shaikh Wajeed Ahmed, Advocate for the applicant.
Mr. A. M. Phule, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 01.04.2022

ORDER :-

. The applicant is apprehending his arrest in connection with Crime No.641 of 2021 registered with Nanalpeth Police Station, Dist. Parbhani for the offence punishable under Section 379 of Indian Penal Code.

2. Heard learned Advocate Mr. Shaikh Wajeed Ahmed 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 one Shaikh Azhar Shaikh Jafar, who is serving as Police Naik with local Crime Branch. He has stated that he was on patrolling duty along with

other police persons. They received secret information that one red and yellow colour tipper filled with sand is proceeding towards Ganpati Chowk. They, therefore, remained present along with two panchas on the said road. The tipper came at that spot around 10.00 p.m. They asked the tipper driver to stop the vehicle. The driver stopped the vehicle. Police asked him about his name and then it is stated that he was one Shaikh Javed Shaikh Shamsheer. They found the tipper was filled with sand and he was not having licence. The sand as well as tipper was seized and the said person was arrested. Thus, it can be seen that the name of the present applicant is not appearing in the FIR. Police have already seized the sand, therefore, there is no question of physical custody for the purpose of recovery. It is stated that the applicant is the owner of the tipper, which was engaged in excavation of sand illegally. Even if for the sake of arguments it is accepted that he is the owner, it is to be noted that the offence that is registered is only under Section 379 of Indian Penal Code and no other Sections for illegal excavation of sand have been invoked. Therefore, the physical custody of the applicant is not required. The interim protection granted earlier by this Court vide order dated 11.03.2022 deserves to be confirmed. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The interim protection granted earlier by this Court vide order dated 11.03.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicant – Shaikh Raheem s/o Shaikh Saleem in connection with Crime No.641 of 2021 registered with Nanalpeth Police Station, Dist. Parbhani for the offence punishable under Section 379 of Indian Penal Code, 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 attend Nanalpeth Police Station, Parbhani on every Monday between 10.00 a.m. to 12.00 p.m., till filing of charge-sheet and cooperate with the investigation.
- IV) He shall not tamper with the evidence of the prosecution in any manner.
- V) He shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm