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

**ANTICIPATORY BAIL APPLICATION NO.448 OF 2022
WITH ABA/481/2022**

**UMESH BHIVSEN KHEDKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. Karpe Rahul R.
APP for Respondent/State : Ms. V.S. Choudhari

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CORAM : S.G. MEHARE, J.

DATED : 26th JULY, 2022

PER COURT:-

1. Heard learned counsel for the applicants and the learned APP for the State at length.
2. It is the case of gang sand stealing. The office of the SDPO received the information that the villagers were stealing the sand from the river by using JCB and tractors. Therefore, the police laid a trap. The police were sent in civil dress on the spot. When they were taking action, the driver of JCB, and others started running towards another bank of the river. The police chased them, but they succeeded in fleeing away in the sugarcane crop. That time, around 25 to 30 persons gathered on the spot. They were saying that the vehicles belonged to them. The police revealed the names of the applicants, Sagar Bajirao Khedkar and Vinod Bajirao Khedkar. They were threatening the police that they would see how the police would

take action against them. It has been specifically alleged that Vinod knocked the constable down and beat him with kicks and blows. When other police constables came to his rescue, the applicant Sharad Machindra Khedkar, Umesh Khedkar, Ganesh Khedkar, Jaysing Khedkar and Sandip Ware also rushed at and beat them. Sharad Khedkar assaulted the police head constable Gund. The applicant Vinod Khedkar and a few of the mob tried to take away the JCB and tractors. When they saw a police vehicle coming from Nagalwadi, they fled away with JCB and tractor. Then they left the JCB and tractor midway and fled away in one vehicle. The applicant Vinod succeeded in running away with a tractor. The police seized the vehicle present there.

3. The learned counsel for the applicants has vehemently argued that at the same time, the revenue officer also had been to the spot. All the applicants were called there as witnesses. He would rely on the panchnama dated 21.03.2022, drawn by the village Talathi. It has been contended in the said panchanama that when the revenue officer reached there, the police constable Shaikh and Jadhav in civil dress were taking action for illegally transporting the sand. They were loudly shouting and were behaving indecently. It is also mentioned in that panchanama that they threatened the Tahsildar Shri More. They have also threatened the vehicle owners in front of them. It has also been stated in the said panchanama that they have threatened them

to file a crime under Section 353 of the Indian Penal Code. They had taken the tractor and JCB to Karjat.

4. The learned APP has strongly opposed the application contending that all the applicants were most aggressive. They were caught red-handed while stealing the sand from the river. She has referred to the statement of the Tahsildar Shri More and would submit that there is nothing in his statement as that has been written in the said panchnama dated 21.03.2022. She has also referred to the statement of one Akshay, the Talathi. He is also silent as regards threatening them by the police constables. She has vehemently argued that considering the entire episode, it is a clear case of stealing the sand in the daylight. The vehicles were used to excavate the sand. None of the persons present there were called as witnesses. However, all the persons were most aggressive and threatening to the police officers. The mob was aggressive and were restraining the police officers from discharging their duties. Having regard to the conduct of all the applicants, it seems that they had interest either in the vehicle or in stealing the sand. The entire facts of the case show that the applicants were committing theft together. The police wanted to know who was the key person in committing the theft and how much sand the applicants had stolen. The police wanted the police custody of the applicants for the recovery of the stolen sand from the river. Therefore, the custodial interrogation of the applicants is essential.

5. This Court has considered the facts of the case. It clearly appears that all the applicants were most aggressive. A specific allegation has been levelled against them that how they were behaving. The panchnama drawn by Talathi dated 21.03.2022 as regards the statement of Tahsildar Shri More supports the threats given by the police constable to the Tahsildar. It appears a strange practice to record such a type of panchnama. It is very strange to note that when the police were already taking action, the Talathi drew panchnama, and obtained the signatures of all the applicants and others. If really it would have been an incident of threatening, a proper way was to lodge the report with the police officers. The police collected the material, and the vehicles available on the spot of the incident were seized. The applicants have collectively threatened the police officers. Prima facie evidence is with the prosecution to believe that the applicants were involved in stealing the sand from the river. The police must know how much quantity of the sand has been stolen by the applicants and to whom they have sold the stolen sand. It also appears that the applicants were aggressive and also beat the police constables. Considering all these facts, this Court is not convinced that this is a good case to grant the anticipatory bail. For these reasons, both the applications stand dismissed.

6. Learned counsel for the applicants in Anticipatory Bail Application No.448 of 2022 prays for the extension of interim

protection for two weeks as they were protected from arrestS. The order granting interim protection to them is extended for two weeks from today.

(S.G. MEHARE, J.)