

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 ANTICIPATORY BAIL APPLICATION NO.455 OF 2022

ANANDA BALIRAM SAPKALE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. B.S. Deshmukh, Advocate for the applicant

Mr. B.V. Virdhe, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 04th MAY, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.76/2022 dated 13.03.2022 registered with Jalgaon Taluka Police Station, Dist. Jalgaon, for the offence punishable under Section 353, 379 read with Section 34 of the Indian Penal Code, 1860, under Section 21 of the Mines and Minerals Act, 1957 and under Section 48(7), 48(8) of the Maharashtra Land Revenue Code, 1966.

2 Heard learned Advocate Mr. B.S. Deshmukh for the applicant and learned APP Mr. B.V. Virdhe for the respondent.

3 It has been vehemently submitted on behalf of the applicant that applicant has been falsely implicated. So also, his vehicle has been falsely shown to be involved in the case. The applicant had taken the necessary permissions for transportation of the sand. The sand was picked from village Kundi, Jalapor, Navsari, Gujrat. The receipt about the same has been produced at Exh.'D'. A copy of eTP was also produced on record, that is, for E-transfer. The number was also taken online and the validity of the same was till 1.12 p.m. on 13.03.2022. The transport department had also given the permit for transfer of the goods vehicle. That permission has been produced at Exh.'C'. When all the necessary permissions were taken, it has been falsely stated that the driver had not shown those documents to the informant, who is a Talathi. Even the presence of the present applicant has been shown stating that after the dumper was asked to be stopped, the applicant had come on motorcycle. It is highly impossible to state that the applicant would have been travelling on a two wheeler behind the truck. The custodial interrogation is not necessary. Applicant is ready to abide by the terms of the bail.

4 Per contra, the learned APP strongly opposed the application and submitted that the applicant is involved in four offences -

- 1) **Crime No.57/2009** registered with Jalgaon Taluka Police

Station, for the offence punishable under Section 279, 337, 338 of the Indian Penal Code, 1860 and under Section 184 of the Motor Vehicles Act, 1988.

2) **Crime No.4/2015** registered with Jalgaon Taluka Police Station, for the offence punishable under Section 379 read with section 34 of the Indian Penal Code, 1860.

3) **Crime No.43/2017** registered with Jalgaon Taluka Police Station, for the offence punishable under Section 395, 143, 147, 149, 427 of the Indian Penal Code, 1860 and under Section 135 of the Maharashtra Police Act, 1951.

4) **Crime No.53/2021** registered with Jalgaon Taluka Police Station, for the offence punishable under Section 379 of the Indian Penal Code, 1860.

It appears that the applicant is involved in illegal excavation and theft of the sand. Under such circumstance, he does not deserve any sympathy.

5 It is to be noted that the allegations at each time are required to be considered and it cannot be just brushed away by saying that there are criminal antecedents. In present case there are documents to show that he had taken appropriate permissions from the Gujrat Government and also the necessary charges paid for transportation of his vehicle from one State to another, therefore, when documents have been produced the past record will

not come in his way to get the anticipatory bail. There appears to be some other fact involved because it is highly impossible that when such documents are collected, he will not show it to the Talathi.

6 Substantial part of the investigation appears to be over. Even if we consider that the Talathi was doing his duty and it was the duty of the applicant as well as his driver to show the necessary documents to him, it does not give any right to the applicant to use force against the informant. Even if for the sake of argument it is accepted that the informant was demanding any amount, which can be said to be the illegal gratification, there was legal way for the applicant to make complaint against him, but he cannot take the law in his hand.

7 Alternatively the learned Advocate for the applicant submits that if at all this Court considers that the use of criminal force was uncalled for; yet, for that purpose the applicant is repenting and he is ready to show his bona fides by depositing the amount. Under such circumstance, following order is passed.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicant viz. **Ananda Baliram Sapkale**, in connection with Crime No.76/2022 dated 13.03.2022 registered with Jalgaon Taluka Police Station, Dist. Jalgaon, for the offence punishable under Section 353, 379 read with Section 34 of the Indian Penal Code, 1860, under Section 21 of the Mines and Minerals Act, 1957 and under Section 48(7), 48(8) of the Maharashtra Land Revenue Code, 1966, he be released on PR. Bond of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 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 and shall remain present before the Investigating Officer as and when called.

5 Applicant to deposit an amount of Rs.10,000/- (Rupees Ten Thousand only) to the High Court Legal Services Sub-Committee, Aurangabad, on or before 06.05.2022.

(Smt. Vibha Kankanwadi, J.)