

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

23 ANTICIPATORY BAIL APPLICATION NO.724 OF 2022

VITTHAL ANKUSH MUNDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Jadhav Satej S.
APP for Respondent-State : Mr. A. A. Jagatkar.

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CORAM : S. G. MEHARE, J.
DATE : 27.06.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. Learned counsel for the applicant would submit that the truck involved in the alleged incident was hired by the auction purchaser from him. It was plied by him through the contractor on getting the transit passes issued by the Mining Officer. However, it has been falsely alleged against the applicant that the truck was used to excavate the sand after the allowed quantity of sand to be excavated. The applicant was not present on the spot. He has no knowledge about the alleged incident. Nothing is to be recovered and discovered from the applicant. His truck is seized by the police. His driver was also arrested and released on bail. The applicant is ready to co-

operate with the Investigating Officer. He may be released on bail.

3. Per contra, learned APP would submit that one offence was registered against the driver of the same vehicle owned by this applicant for the offences punishable under Section 279 and 304-A of IPC along with other sections under the Motor Vehicles Act at Police Station Ambejogai. He would point out that in the FIR lodged at Ambejogai; it has been mentioned that the said truck was carrying sand unauthorisedly. Hence, the applicant has no good past. However, he could not satisfy the Court whether an action under the Essential Commodities Act or any other relevant Act about the stolen sand was taken. The Court questioned him "for what purpose, the custodial interrogation of the applicant is required", he would fairly state that "at this juncture, his custodial interrogation is not required". Be that as it may, the facts reveal that the truck was seized from the spot. The applicant has a specific case that the said truck owned by him was plied through the contractor. Therefore, he has no control over his business. It may be assumed that since an action under the Mining Act is taken, the Mining or Revenue Officer must have started the proceeding for the confiscation or seizure proceedings of the

truck. Having regard to the facts of the case, there appears no reason to have a custodial interrogation for the effective interrogation. The circumstances favour the applicant. Therefore, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant **Vitthal Ankush Munde**, shall be released on bail in Crime No.222 of 2022, registered with Police Station Pathri District Parbhani for the offences punishable under Sections 379, 430, 431, 432, 439, 109 read with Section 34 of the IPC and Section 48(7) and 48(8) of the Maharashtra Land Revenue Code, on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent sureties in the like amount, on the conditions that he shall co-operate with the investigation and attend the Police Station as and when called by the Investigating Officer on written notice. He shall not tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

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vmk/-