

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

935 ANTICIPATORY BAIL APPLICATION NO.984 OF 2022

1. SHAIKH SOHEL SHAIKH RAFIK
2. GAJANAN SONAJI BANCHAR
VERSUS
THE STATE OF MAHARASHTRA

**WITH
ANTICIPATORY BAIL APPLICATION NO.943 OF 2022**

MOHAMMAD MAJHAR S/O MOHAMMAD AZAM INAMDAR
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Vikhe Pratap B.
APP for Respondent/State : Mr. S.B. Narwade

**WITH
ANTICIPATORY BAIL APPLICATION NO.900 OF 2022**

SHAHED KHAN S/O KARIM KHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Shaikh Wajeed Ahmed
APP for Respondent/State : Mr. S.B. Narwade

...

CORAM : S.G. MEHARE, J.

DATED : 12th AUGUST, 2022

PER COURT:-

1. Heard learned counsels for the applicants and learned APP for the State.
2. The applicants have a case that they had leased their vehicle to the tenderer. Therefore, they had no control over its use. They have no concern with the alleged incident. However, they being

(2)

the owners of the vehicles by making false allegations of using the vehicles for illegal excavation of sand, have been arraigned as accused. They are ready to co-operate with the investigation.

3. Learned counsel appearing for the tenderer in Anticipatory Bail Application No.909 of 2022 concedes that the vehicle owned by the present applicants were hired by him. However, those were not used for illegal excavation.

4. Learned APP has vehemently argued that the applicants were having the knowledge that their vehicles have been used for illegal excavation. The present applicants are in conspiracy with the tenderer. Therefore, they are not entitled to the anticipatory bail.

5. The offences of committing theft of sand along with various provisions of law have been registered. The statement of the applicants that they are the owners of the vehicles involved in the alleged incident, and leased it to the tenderer is accepted by the tenderee. There appears substance in the arguments of the learned counsels for the applicants that after the vehicles were leased, they had no control over its use. The vehicles have already been seized and released by the Court. Considering the facts of the case, this Court is of the view that these are the fit cases for anticipatory bail. Hence, the following order :

ORDER

(A) All Applications are allowed.

(3)

(B) In the event of arrest, the applicants, Shaikh Sohel Shaikh Rafiq and Gajanan Sonaji Banchar in Anticipatory Bail Application No.984 of 2022, be released on bail, on executing P.B. and S.B. of Rs.50,000/- (Fifty Thousand) each with one solvent surety in the like amount in Crime No.136 of 2022 registered with Parbhani Rural Police Station, Taluka and District Parbhani for the offence punishable under Sections 379, 430, 431, 432, 439, 109 and 34 of the Indian Penal Code, Section 48 (7) (8) of the Maharashtra Land Revenue Code and Section 3, 15 (1) (2) of the Environment Protection Act r/w Section 37 (1), 135 of Maharashtra Police Act, on the condition that they shall attend the police station as and when called by the Investigating Officer on written notice and shall not tamper with the prosecution witnesses.

(C) Interim protection granted to the applicants in Anticipatory Bail Application No.943 of 2022 and 900 of 2022 by order dated 22.07.2022 and 12.07.2022, is confirmed on the same terms and conditions.

(S.G. MEHARE, J.)