

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. ANTICIPATORY BAIL APPLICATION NO. 2769 OF 2021

Mahadev Laxman Shelke and Anr. ..Applicants

Vs.

The State of Maharashtra ..Respondent

Mr. Devidas J. Jadhav, for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent / State.

HC 673 Akshay M. Kamble, Tembhurni Police Station.

CORAM : C.V. BHADANG, J.

DATE : 16 FEBRUARY 2022

P.C.

. The Applicant, apprehending arrest, in connection with investigation of Crime No.552/2021 of Police Station Tembhurni, District Solapur (Rural), under Section 307, 353, 332, 379, 188 and 427 r/w. 34 of IPC and Section 9 and 15 of the Environment (Protection) Act, 1986, is seeking anticipatory bail.

2. The aforesaid offence is registered on the basis of the complaint lodged by Tukaram Shivaji Mane who is a Police Head Constable attached to the Police Station Tembhurni. On a prior

information on 25 August 2021, the informant alongwith other police staff had gone to check the incident of illegal sand mining in the *Bhima* river bed in Taluka Madha. According to the first informant, he was waiting near the Mahadev Temple. At 00.05 hours, one tractor with a trolley came from the river bed. It was stopped. It was bearing No.MH-45-M-7270 and the trolley was carrying about one brass of sand. On inquiry, the driver informed that he was not having a pass and the truck was owned by the present Applicant Samadhan Jarak. The FIR indicates that the Applicant Samadhan Jarak came on a motorcycle. According to the informant, the applicant instigated the driver to take the tractor and trolley which eventually dashed the two wheeler of the first informant. The informant was thrown away and was saved. However, the two wheeler was substantially damaged. On the basis of said complaint, offence came to be registered which is under investigation. The FIR also indicates that one Sudhir Sorte had rushed on the person of one of the members of the staff with a tommy in hand.

3. I have heard the learned counsel for the parties. Perused record.

4. It is submitted by the learned counsel for the Applicant that there were transport passes which have been produced on record. It

is submitted that although the said passes are of 2014, one of the relatives of the Applicant had constructed a house in the year 2014, out of which some sand was lying with the said relative which was being carried in the year 2021. It is submitted that custodial interrogation of the Applicant is not necessary and one of the co-accused is arrested and released on bail.

5. Learned APP has submitted that the offence is serious in which the informant had sustained injury and the vehicle was damaged. One other member of the staff was also assaulted and had suffered injuries.

6. I have considered the submissions made. Looking to the nature of the allegations, I find that not only that there was illegal sand mining, but also an assault on the public servant in order to prevent him from discharging his duties. *Prima facie*, it can be seen that the first informant has been injured and the vehicle has been severely damaged as it was run over by the tractor. This is not a case in which the Applicant can be extended with the benefit of pre-arrest bail. The Criminal Application is accordingly rejected.

C.V. BHADANG, J.