

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

ANTICIPATORY BAIL APPLICATION NO.1834 OF 2022

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Vijay Sambhaji Koshti & Anr.

..Applicants

Versus

State of Maharashtra & Anr.

..Respondents

Mr. Mahendra Kawchale, for the Applicants.

Mr. A. A. Palkar, APP for the Respondent/State.

CORAM : NITIN W. SAMBRE, J.

DATE : 20th SEPTEMBER, 2022

PC.

1. Applicants are seeking pre-arrest bail in Crime No.241 of 2022 registered with Kavathe-Mahankal Police Station, District Sangli for the offence punishable under Sections 353, 379, 323, 504, 506 r/w 34 of IPC, Sections 4 and 21 of Mines and Mineral Act and 9 & 25 of the Environment Protection Act.

2. The prosecution story is, the complainant, a public servant when intercepted applicants when they were illegally transporting the sand in the tractors and trollies issued threats in filthy language.

3. Counsel for the applicants would urge that the spot of the incident is located at border between two States i.e. Maharashtra and Karnataka. According to him, agricultural

property of the applicants is located on the bank of the river and the people were illegally drawing the sand from the river-bed and were storing it adjacent fields of the applicants. According to him, in the backdrop of aforesaid factual matrix, complaint by the revenue authorities is lodged. He would urge that considering the nature of allegations, custodial interrogation of the applicants is not required.

4. Learned APP would urge that after the ad-interim protection was granted, applicants appeared before the Investigating Officer and were released on bail. According to him, custody of the vehicles is yet to be recovered.

5. I have appreciated the said submissions.

6. The complainant, a public servant claimed that applicants were transporting minor minerals (sand) illegally from the river-bed. It is claimed that the said transportation was carried out in two tractors which were attached with trollies. A categorical statement is made that the tractors and trollies were not having any registration numbers.

7. Learned APP on the basis of investigation carried out has informed that the statement of eye witness i.e. Kotwal has supported case of the prosecution.

8. It appears that applicants appeared before the

Investigating Officer. The Investigating Agency have not made any effort to trace vehicles which were involved in the offence in question. It is the categorical statement of the complainant in the FIR that both the tractors were of the particular make to which trollies were attached. In this background, since the allegations made in the FIR are too vague, false implication of the applicants cannot be ruled out. Apart from above, the photographs of the applicants while transporting were taken by the complainant as mentioned in the FIR are not part of the investigation papers. As such, the very story narrated by the complainant in the FIR does not repose confidence. In this background, ad-interim protection stands confirmed.

9. In the event of arrest, applicants are directed to be released on bail on furnishing PR bond of Rs.15,000/- each with one or more sureties in the like amount.

10. Applicants shall neither influence the witnesses in any manner nor tamper with the evidence.

11. Applicants shall attend the Investigating Officer on 25th September, 2022 and 26th September, 2022 and thereafter as and when directed.

12. Both the applicants have made a categorical statement in paragraph No.9 of the application that there are no antecedents.

13. APP has brought to the notice of this Court about registration of similar type of offence against both the applicants.

14. As such, both the applicants have made false statement before this Court. In this background, in my opinion, both the applicants should be saddled with cost of Rs.25,000/- each to be deposited with the District Legal Services Authority, Sangli before their release.

15. If the cost is not paid within period of one week from today, protection ordered by this Court shall cease to operate.

16. The application as such stands disposed of.

[NITIN W. SAMBRE, J.]