

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3118 OF 2021

Ajit Govind Saste and Another	...Applicants
vs.	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.3132 OF 2021**

Chetan Raychand Wakhare	...Applicant
vs.	
The State of Maharashtra	...Respondent

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Mr. A.S. Khandeparkar a/w. Mr. Saurabh Mittal and Mr. Vaibhav Kulkarni i/b. Khandeparkar Associates, for the Applicants in ABA No. 3118 of 2021.

Mr. N.M. Pujari i/b. Mr. Sumit Khaire, for the Applicant in ABA. No. 3132 of 2021.

Mr. P.H. Gaikwad, APP, for the State.

CORAM : N. J. JAMADAR, J.

DATE : JUNE 14, 2022

PC.

1. Apprehending arrest in C.R. No. 650 of 2021 registered with Bhosari MIDC police station, Pune for the offences punishable under sections 379 read with 34 of Indian Penal Code, 1860 and section 9 and 15 of Environment (Protection) Act, 1986 and section 130(3) and 177 of the Motor Vehicle Act, 1988, the applicants have preferred these applications for pre arrest bail.

2. On 23rd November, 2021 four trucks laden with sand were seized by police. It transpired that the sand was being

unauthorizedly excavated from Indrayani River bed and transported, for being sold in market without payment of royalty.

The applicants are the owners of the trucks.

3. The applicants claimed that they were transporting crushed sand, from the crushers owned by Sopan Satore and Navnath Shetye. Crushed sand is distinct from the sand found in the river bed. It is manufactured by an artificial process. The applicants have, therefore, been falsely roped in for the alleged offences.

4. By an order dated 23rd December, 2021 this Court granted interim pre arrest bail.

5. I have heard Mr. Khandeparkar, learned counsel for the applicants in application No. 3118 of 2021; Mr. Pujari, learned counsel for the applicant in application No. 3132 of 2021 and Mr. Gaikwad, learned APP for the State.

6. Mr. Khandeparkar invited attention of the Court to the reports submitted by the Tahsildar, Pimpri-Chinchwad, computing the royalty and panalty in respect of the seized product. The nature of the seized product is mentioned as “crushed sand”. It was further pointed out that the said amount of royalty and penalty has already been paid. Therefore, at this juncture, the interim order deserves to be made absolute.

7. The aforesaid submissions as regards the nature of the

product seized and the computation of royalty and penalty thereon are borne out by the order passed by the Tahsildar and the receipts which evidence the payment of the same. The nature of the product which was allegedly unauthorizedly excavated, transported and seized is, thus, rendered debatable.

8. Indisputably, the allegedly unauthorizedly excavated sand and the trucks have been seized. In the backdrop of the nature of the accusation, with the seizure of the allegedly unauthorizedly excavated sand and the vehicles in which it was being transported, the custodial interrogation of the applicants, who are from the own showing of the prosecution, the transporters, is not at all warranted.

9. The applicants appear to have roots in society to bind them down to their place of abode and business. Possibility of fleeing away from justice is remote.

10. I am therefore persuaded to confirm the order of interim pre arrest bail. Hence, the following order.

ORDER

1] The applications stand allowed.

2] The order of interim pre arrest bail dated 23rd December, 2021 is made absolute on the same terms and conditions.

(N. J. JAMADAR, J.)