

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 368 OF 2021

Mr. Laxman S/o. Vishwanath Ghongde,
Age 50 Years, Occupation – Business,
R/o. Kargil Square, Gadchiroli,
Dist. Gadchiroli.

.... **APPLICANT**

// VERSUS //

- 1) State of Maharashtra,
through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
- 2) Police Station Officer,
Police Station, Gadchiroli,
Dist. Gadchiroli.
- 3) Hemant Ramesh Mohre,
Age 31 years, Occupation Service/
Tahsildar, having its office at
Sub Divisional Officer, Gadchiroli,
Dist. Gadchiroli.

.... **NON-APPLICANTS**

Mr. Vikrant Vishwarupe, Advocate h/f Mr. R.R. Vyas, Advocate
for Applicant.

Mr. S.D. Sirpurkar, Additional Public Prosecutor for Non-
applicant Nos.1 and 2.

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.**

DATED : 09.06.2022

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. Although it has been stated by learned counsel for the applicant that on the day of incident, when the tractor along with illegal sand was seized, the applicant, the owner of the tractor and trolley in question, did possess the transit pass for transportation of the excavated sand. We find that the statement so made before us by the learned counsel on behalf of the applicant is patently false. The transit passes filed on record indicate that they were issued for transportation of sand by a tractor and trolley bearing different registration numbers. So, it is quite clear that the tractor and trolley in question, which has been seized in the present case along with sand, did not have any transit pass for carrying of the sand on the day of the incident. Then, the post incident conduct of this applicant, *prima facie*, supports the case of the prosecution that the sand transported by the tractor and trolley in question was illegal and was removed from the sand ghat without having any permit or license for excavation and extraction of the sand. If this is the case, the offence of theft under Section 379 of the Indian Penal Code is also *prima facie* made out along with the other offences. Thus, this is not a fit case for making any interference.

3. The Criminal Application stands dismissed.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Kirtak