

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Anticipatory Bail Application No. 181 of 2022

Dilip S/o Rambhau Ghorpade

Versus

The State of Maharashtra, through Police Station Officer,
Police Station Warora, Dist. Chandrapur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.R. Galande, Advocate for the applicant.

Mrs. S.S. Jachak, APP for the non-applicant.

CORAM : ANIL S. KILOR, J.

DATED : 11th APRIL, 2022.

The applicant is seeking pre-arrest bail in Crime No. 115 of 2022 registered with Police Station Warora, District Chandrapur for the offence punishable under Sections 379, 109 read with Section 34 of the Indian Penal Code.

2. The allegations in the First Information Report are relating to sand theft. The applicant is the owner of the vehicle involved in the alleged offence.

3. Learned counsel for the applicant submits that at the most, even if the contents of the First Information Report are taken on its face value, the applicant could be an abettor and the punishment is of

only three years, he therefore prays that the applicant may be released on pre-arrest bail.

4. It is submitted that on the statement of the driver, who is co-accused, the name of the applicant has been arrayed as accused, whereas he is no way connected with the alleged offence. It is submitted that some of the co-accused namely Kashid Khan and Sopan De were granted pre-arrest bail by the High Court and Dilip Nagpure by the Sessions Court.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the application and made available the case diary for perusal. It is submitted that sufficient material has been collected by the Investigating Officer during the investigation to show involvement of the applicant in the alleged offence, therefore, she prays for rejection of the present application.

6. I have perused the case diary and also contents of the First Information Report.

7. The applicant is not disputing that he is the owner of the vehicle. The offence is of sand theft. The offence is directly related with the environment and therefore, it is a serious offence in view that it is directly

affects the society at large. These offences are raising every day and therefore some deterrence is necessary. Therefore, in such matters the only criterion while considering the prayer for grant of bail should not be how much is the punishment but the result of repetition of such offence on grant of bail.

8. Lastly, the case of Kashid Khan and Sopan De cannot be equated with the case of the present applicant. Kashid Khan and Sopan De were granted bail on the ground that *prima facie* no incriminating material found against them, however against the applicant there is sufficient *prima facie* incriminating material is available on record.

9. In that view of the matter, as there is sufficient *prima facie* incriminating material available on record to show involvement of the applicant, I am not inclined to grant pre-arrest bail to the applicant. Accordingly, I pass the following order.

ORDER

- i. Criminal application is rejected.

[ANIL S. KILOR, J.]

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