

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 294 OF 2023

1. Harshal Kailas Kale
2. Sushil Pandhari Mandve ..APPLICANTS

VERSUS

State of Maharashtra and Another ..RESPONDENTS

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Mr. Shardul Shinde, Advocate h/f Mr. A.K. Bhosle, Advocate for applicants
Mr. N.T. Bhagat, A.P.P. for respondents

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**CORAM : R.G. AVACHAT, J.
DATED : 16th MARCH, 2023**

PER COURT :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicants claim to have an apprehension of being arrested in connection with Crime No. 20 of 2023 registered with Soygaon Police Station, Dist. Aurangabad for the offences punishable under Sections 323, 353, 379, 506 and 511 read with Section 34 of the Indian Penal Code ('I.P.C.') and under Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code.

2. Heard. Perused First Information Report ('F.I.R.') and related police papers.

3. F.I.R. has been lodged by Talathi of village Soygaon on 29th January, 2023. It has been alleged in the F.I.R. that the informant was a member of a squad constituted for detection of theft of sand or natural resources. The informant alongwith members of the squad had been to Bamna Dam on 29th January, 2023. They noticed one tractor attached with trolley loaded with sand. On noticing the informant with his companions arriving towards them, the applicants unloaded the sand in the river by themselves. It has been alleged that the tractor does not bear number plate. The tractor driver ran away with tractor and the trolley.

4. It is difficult to imagine the the informant and the members of the squad would allow the culprits to fled with the tractor that too from the riverbed. According to this Court, even they could have walked faster than the speed of the tractor in the riverbed. The applicants herein are alleged to have manhandled Vijendra Wagh, the Security Guard. Nothing further has been attributed to the applicants. The applicants have no criminal antecedents. One of them is said to be the Councilor. Considering the nature of offence, custodial interrogation of the applicants is unwarranted.

5. In the factual backdrop of the case, the applicants need to be granted anticipatory bail. Hence the following order :-

ORDER

(I) Application is allowed.

(II) In the event of arrest of the applicants, in connection with Crime No. 20 of 2023 registered with Soygaon Police Station, Dist. Aurangabad for the offences punishable under Sections 323, 353, 379, 506 and 511 read with Section 34 of the Indian Penal Code and under Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, they be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with surety in the like amount.

(III) The applicants shall not indulge in similar offence.

(IV) The applicants shall co-operate in investigation and appear before the investigating officer, as and when required for the investigating purpose.

(V) The applicants shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD