

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

BAIL APPLICATION NO.415 OF 2023

**SHAIKH YUNUS SHAIKH CHAND
VERSUS
THE STATE OF MAHARASHTRA**

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**Advocate for Applicant : Mr. Rajendrraa Deshmukh, Senior Advocate
a/w Adv. Priya S. Gondhalekar, Adv. Vishal Chavan i/b
Mr D. R. Deshmukh
APP for Respondent: Mr. K. S. Patil**

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CORAM : S. G. MEHARE, J.

DATE : 15.03.2023

PER COURT :

1. Heard the learned senior counsel for the applicant and the learned A.P.P. for the respondent-State.
2. The applicant is seeking bail for the offences punishable under Sections 379, 353 read with Section 34 of the Indian Penal Code and Section 3 (15) of Mines and Minerals (Development and Regulation) Act.
3. The offence is registered in the year 2016 alleging that the sand was stolen at the instance of the applicant. The drivers running the trucks carrying sand were apprehended. They told the name of the applicant. Since 2016 till 2023, the applicant was not arrested.

4. The learned senior counsel for the applicant would argue that the investigation has been completed. After 2016, no crimes for similar offences were registered against him. He has been shifted to Aurangabad. He has serious disputes with his family members. The person who was allowed to intervene the application is the nephew of the applicant. The intervenor is neither a 'victim' nor the person aggrieved. Hence, he could not be heard. He would argue that barely crimes have been registered against the applicant, bail cannot be refused. The further detention of the applicant would not be fruitful. Hence, he deserves bail.

5. The learned A.P.P. would argue that the applicant has been involved in many crimes. He did not respond the police. He was hero behind the curtain. He has no good past. Hence, he may not be granted bail.

6. Perused the papers. It is not disputed that there were many crimes registered against the applicant. However, this Court while dealing with his bail application no Criminal Application No.6603 of 2014, by order dated 29th January 2015, considered the aspect of cases registered against him and granted bail. Law is well settled that barely having the crimes registered against the accused, he cannot be

denied bail. The applicant was arrested and has undergone police custody remand. Nothing is recovered from him. The Court has to see the necessity of his further detention in the present crime. The prosecution has no explanation why the applicant was not arrested since the year 2016.

7. Considering the allegations levelled against the applicant this Court is of the view that his further detention would serve no purpose. However, considering his past, certain stringent conditions may be imposed. Hence, the following order :-

(i) Bail Application is allowed.

(ii) Applicant Shaikh Yunus Shaikh Chand be released on bail on furnishing P. B. and S.B. of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No I-15 of 2016 registered with Shevgaon Police Station, District Ahmednagar for the offences punishable under Sections 379, 353 read with Section 34 of the Indian Penal Code and Section 3(15) of Mine and Minerals (Development and Regulation) Act, on the following conditions :-

- (a) He shall not tamper with the prosecution witnesses.
- (b) He shall attend the trial on each and every effective date.
- (c) He shall co-operate with the prosecution to complete the trial at the earliest.
- (d) He shall not involve in the similar crime.

(S. G. MEHARE, J.)