

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

931 ANTICIPATORY BAIL APPLICATION NO.830 OF 2023

GANESH PRAKASH JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Sudheer Ramdas Zambare

APP for Respondent – State : Mr. S.N. Morampalle

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CORAM : R. M. JOSHI, J.

DATE : AUGUST 1, 2023

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 649 of 2022 registered with Parner Police Station, Tal. Parner, Dist. Ahmednagar for the offences punishable under Section 332, 353, 379, 511 of the Indian Penal Code and Section 3 and 15 of the Environment Protection Act.

2. Informant is Circle Officer at Vadjire. According to him, on 14.08.2022 he along with two Talathis went at the spot of incident wherein unauthorized extraction of murum was found from Gut No.964 belonging to Government. Informant and others objected for the said extraction. The driver of JCB (unnumbered) called owner of the JCB. The present applicant is said to be the owner thereof.

The act of seizure of JCB was obstructed by applicant. It is also alleged that with the help of the driver the said JCB machine was taken away.

3. Learned counsel for applicant states that applicant was issued notice under Section 41-A of Code of Criminal Procedure (in short 'CrPC') and pursuant to the said notice, he appeared before the Investigating Officer and his statement came to be recorded. It is his contention that he does not own any JCB.

4. Learned APP opposed application by submitting that there are specific allegations against present applicant about obstructing informant from discharging the official duty.

5. Incident in question is occurred on 14.08.2022. There is no denial about the fact that pursuant to the notice issued under Section 41-A of CrPC applicant has appeared before the police and his statement was also recorded. There is nothing on record to indicate that any attempts were made by the Investigating Officer to seek custody of applicant for last 11 months. In such circumstances, it can be safely inferred that the investigating agency does not intend to seek custody of applicant. Hence only on this ground alone, the application deserves to be allowed. Hence, following order:

ORDER

- (i) Application stands allowed.
- (ii) In the event of arrest of applicant in connection with Crime No.649 of 2022 registered with Parner Police Station, Tal. Parner, Dist. Ahmednagar for the offences punishable under Section 332, 353, 379, 511 of the Indian Penal Code and Section 3 and 15 of the Environment Protection Act, he be released on bail on furnishing PR Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.
- (iii) He shall attend the concerned police station as and when called.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) He is further directed to cooperate with the investigating agency for further investigation.

[R. M. JOSHI]
JUDGE