

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.952 OF 2023
WITH ABA/969/2023

MOFIN KHAN MAKBUL KHAN PATHAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants in ABA/952/2023 : Ms. P. P.
Shinde h/f Mr. A. K. Bhosle
Advocate for Applicant in ABA/969/2023: Mr. D. S. Kale
APP for Respondents: Mr. V. S. Badakh

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 21, 2023

COMMON ORDER :

1. Applicants apprehend arrest in connection with with C.R. No. 78 of 2023 registered with Daultabad Police Station, Dist. Aurangabad for the offences punishable under Sections 379 of the Indian Penal Code AND Sections 48(7) & 48(8) of Maharashtra Land Revenue Code, 1966.

2. Circle Officer, Pandharpur, Dist. Aurangabad gave report in respect of information received by him that there is theft of minor minerals from Gut No. 135 allotted to the University. It is alleged therein that since last 10 to 12 years with the help of JCB and

Dumper 10 to 15 unknown persons carried out unauthorized excavation of minor minerals from the said place. It is stated in the said report that from the secret information it was revealed that the present Applicants are the persons who have carried out said excavation.

3. Learned Counsel for the Applicants submits that the alleged theft committed is prior to 10 to 12 years and that there was no report in respect of the same for all these years. It is contended that in order to falsely implicate the Applicants in the crime, their names are mentioned in the FIR.

4. Learned APP though opposed the applications but was unable to point out any evidence against present Appellants that they are the persons who carried out the work of excavation.

5. It is shocking that Revenue Authorities did not notice the unauthorized excavation of the mines and minerals from the Government land for long period of 10 to 12 years. On the basis of present report, implication of the present Applicants is sought.

Perusal of the investigation papers shows that though statement of neighbouring persons are recorded, however, from their statement offence cannot be attributed to the present Applicants. Those witnesses have neither named the Applicants nor even given the registration numbers of the vehicles, which were used for the purpose of excavation.

6. Having regard to these facts, applications are allowed in terms of interim orders dated 21st June, 2023.

(R.M. JOSHI, J.)

Malani