

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

ANTICIPATORY BAIL APPLICATION NO.1039 OF 2023

SURESH S/O JAGANNATH PATIL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. C. C. Deshpande

APP for Respondents: Mr. V. S. Badakh

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CORAM : R.M. JOSHI, J

DATE : JULY 24, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 118 of 2023 registered with Songir Police Station for the offences punishable under Sections 353, 341, 379, 504, 506, 427 read with Section 34 of the Indian Penal Code.

2. Informant, who is Talathi working at Vadal Road Valwadi, Dist. Dhule alleged that an incident occurred on 08.05.2023 at around 05.30 pm to 07.00 pm when he had been to the river bed of river Panjara. At that time he found the extraction of sand being done illegally. Allegations are made against driver of the tractor that the said driver and the labourers working therein opposed informant and threatened him of

assault. There is also statement to the effect that at that time informant was pulled down from the tractor and his shirt was torn. In respect of incident occurred on 08th May, 2023 report came to be lodged on 16th May, 2023.

3. Learned Counsel for the Applicant states that there is unexplained delay in lodging of the FIR which creates doubt about his genuineness. He further submits that nothing is to be recovered at the instance of Applicant. Hence, he be enlarged on anticipatory bail.

4. Learned APP opposed the application by submitting that reason for not lodging immediate report is that Talathi was required to inform about the incident to his superior. Hence, for that purpose time is consumed. He further submits that in order to ascertain as to whom sand was sold the custodial interrogation of the Applicant is necessary.

5. Perusal of the FIR does not show any explanation or reason for causing delay in lodging FIR. Even if it is accepted that as per the practice followed in the revenue department Talathi is required

to report incident to superior, the report of the incident is made to the Assistant Collector on 10th May, 2023. Thus, there is no satisfactory explanation for the delay caused in lodging of the FIR. Apart from this, perusal of the FIR shows that the sand was not carried out by the informant and others and hence, question of custodial interrogation of the Applicant does not arise.

6. In view of the above, application is allowed by confirming order dated 03rd July, 2023.

(R.M. JOSHI, J.)

Malani