

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1351 OF 2023

UDDHAV GANGADHAR CHAVAN  
VERSUS  
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. G. S. Shete  
APP for Respondents: Mr. S. P. Sonpawale

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 08, 2023

PER COURT :

1. The applicant is alleged to have committed offence of theft of sand. FIR No. 149/2023 is registered with Bori Police Station, Dist. Parbhani indicates that on that day at around 06.40 pm on road tractor was found filled up with one brass sand. The said tractor was stopped by the informant. It was found that the said tractor was containing 1 brass and of approximate value of Rs.6000/-. Thereafter, the driver of the vehicle ran away from the spot. It was found that present Applicant is the owner of the said tractor.

2. Learned Counsel for the Applicant does not dispute the fact that he is the owner of the tractor. He further submits that under Section 48(8) of MLRC the

Collector or Revenue Officer not below the rank of Tehsildar is authorized to seize and confiscate any material extracted etc. Thus, according to him, the person who has seized the said article is not authorized person and the said seizure is illegal. As far as offence punishable under Section 379 of IPC is concerned, it is contended that since the sand as well as truck is already seized, his custodial interrogation is not necessary.

3. Learned APP opposed the application.

4. There is no dispute about the fact that the Applicant is the owner of the truck wherein the sand was carried. There is nothing on record to indicate that the Applicant had any license to extract the sand or to transport the sand from one place to another. There is no substance in the contention of learned Counsel for the Applicant that this is not the case of custodial interrogation, as it is necessary for the investigating agency to find out the place from where the sand is stolen. Merely because the sand is seized and the tractor is also in the custody of the police, the custodial interrogation cannot be denied.

5. As far as non compliance of Section 48(8) of MLRC is concerned, this may help the Applicant to get the confiscated material back for want of its proper seizure by the competent authority. In no way this can assist him to get anticipatory bail.

6. In view of above, application stands dismissed.

(R.M. JOSHI, J.)

Malani