

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

954 BAIL APPLICATION NO.1594 OF 2023

RUSHIKESH ARJUN AHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Narayan B. Narwade and
APP for the Respondent/s – State : Mr.K. S. Patil

WITH
BAIL APPLICATION NO.1606 OF 2023

LALA TAMJI SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. S. V. Natu
APP for the Respondent/s – State : Mr. K. S. Patil

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CORAM : S. G. CHAPALGAONAKAR,J.

DATE : 21.09.2023

PER COURT :-

1. The applicants are seeking regular bail in connection with Crime No. 0770 of 2023 dated 07.08.2023 registered with Shevgaon Police Station, Taluka Shevgaon, District Ahmednagar, for the offences punishable under Sections 307, 353, 379 read with Section 34 of the Indian Penal Code, Sections 3 and 15 of Environment (Protection) Act, 1986 and Under Section 4, 21 of the Mines and Minerals (Regulation and Development) Act, 1957.

2. Investigation was set in motion on the basis of the information dated 07.08.2023 given by Ganesh Prabhakar Galdhar, who is a Police Officer. In nut-shell, it is alleged that on 07.08.2023, the secret information was received by police that the accused persons have illegally stored sand in Samangaon Shivar at Sarpe Vasti and they are loading same in their vehicles. On the basis of such information, the police officers visited the spot at about 4.20 hours, they found the vehicles like the trucks, dumpers JCB Machines as well as tractor/trollies. It is alleged that the accused/applicant Lala Shaikh, who was on the driver's seat in a Scorpio Jeep made an attempt to dash the vehicle on the police personnels. The another accused/applicant Rushikesh Aher was trying flee away on his motor-cycle. All these vehicles along with JCB machine, were seized from the spot. The huge stock of the sand was also seized. On the basis of aforesaid information, the Crime No. 770/2023 came to be registered with police station Shevgaon for the offences punishable under Section 307, 323, 379 read with 34 of the Indian Penal Code along with Section 15, 3 of the Environment Protection Act came to be registered and Section 4, 21 of the Mines and Minerals (Regulation and Development) Act, 1957.

3. The applicants before this Court are immediately arrested and since then they are behind the bar. The prayer of the applicants for release on bail has been rejected by the Sessions Court vide order dated 29.08.2023 and 30.08.2023.

4. The learned Advocates appearing for the applicants would submit that the applicants have been falsely implicated on the basis of a concocted story. It is submitted that the alleged place of the incident is within the residential area and storage of the sand as alleged is not possible. Similarly, there is no material to show that the applicants were involved in illegal excavation, storage and transportation of the sand as alleged.

5. The learned Advocates Mr. Narwade and Mr. Nattu appearing for the applicants would submit that even otherwise the investigation is progressed. The applicants are behind the bar for substantial period, i.e. from date of offence. Further detention of the applicants would not be necessary.

6. Mr. Patil, Learned APP strongly opposes the application. He would submit that the vehicles are seized from the spot. Large quantity of sand found, stored on spot. The Scorpio Jeep stands in the name of accused/applicant Lala Shaikh. He was on driver's seat and he tried to hit the police personnel using his vehicle. As such, the offences are serious in nature.

7. Having considered the submissions advanced, it can be gathered that the applicants have been arrested immediately on the

date of registration of offence. They were remanded to Police Custody and thereafter they are in the Magisterial custody. The investigation in the matter is practically over. The vehicles in questions are seized by police. None of the police officer has been injured although there are allegation that the accused / applicant Lala Shaikh had tried to hit the police officers by his vehicle. There is no independent witness to incident to depose against applicants. The statement of the only police personnels are recorded in line with the contents of the F.I.R. It would be difficult to make out any offence under Section 307 or 353 of the Indian Penal Code. Rest of offences are triable by Magistrate. Since the investigation is progressed, further detention of the applicants would not be necessary. No criminal antecedents alleged against applicants. Hence, case is made out for grant of bail.

ORDER

- (i) Bail Applications are allowed.
- (ii) The applicants namely, Rushikesh Arjun Aher and Lala Tamji Shaikh be released on bail in connection with Crime No. 0770 of 2023 dated 07.08.2023 registered with Shevgaon Police Station, Taluka Shevgaon, District Ahmednagar, for the offences punishable under Sections 307, 353, 379 read with Section 34 of the Indian Penal Code, Sections 3 and 15 of Environment (Protection) Act, 1986 and Under Section 4, 21 of the Mines and Minerals (Regulation and Development) Act, 1957, on executing

P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand only) each on following conditions:

- a) The applicants shall not tamper with the prosecution evidence in any manner.
- b) The applicants shall attend the concerned Police Station once in a week i.e. on every Sunday between 10.00 a.m. to 02.00 p.m. till filing of the charge-sheet.
- (iii) Bail Applications are disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

shp/-