

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1655 OF 2023

SIDDHARTH UTTAM GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. G. L. Awale
APP for Respondents: Mr. G. O. Wattamwar

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 16, 2023

PER COURT :

1. Heard. Issue notice to the Respondent, returnable forthwith. Learned APP waives service of notice on behalf of Respondent. By consent of both sides, heard finally.

2. Applicant apprehends arrest in connection with with C.R. No. 137 of 2023 registered with Shiruananatpal Police Station, Dist. Latur for the offences punishable under Sections 379 read with 34 of the Indian Penal Code and Sections 48 of the Maharashtra Land Revenue Code, 1966 and Section 21 of Mines and Minerals (Regulation and Development) Act, 1957.

3. First informant is Talathi of Shiruranantpal.

He reported incident occurred on 10.08.2023 at around 11.30 am. According to him, at that time he saw a person carrying out unauthorized extraction of sand with JCB at the cremation ground. When he made an inquiry with the driver of the JCB he disclosed that the owner of the JCB is Prakash and extraction is done at the instance of present Applicant.

4. Learned Counsel for the Applicant submits that except for the statement of co-accused, there is no evidence to connect Applicant with the crime. Hence, he is entitled for grant of pre-arrest bail.

5. Learned APP opposed the application by submitting that in respect of incident occurred on very same place on 10.08.2023 report is lodged by one of the villagers who has found presence of the Applicant at the spot. It is submitted that from the allegations made in the said FIR it can be said that the Applicant was the one who instructed for extraction of the sand. Application is also opposed on the ground that there are criminal antecedents against Applicant.

6. Though there is substance in the contention of

learned APP that there are criminal antecedents against present Applicant, however, the said offences are said to be not pertaining to the alleged extraction of sand. Even otherwise *prima facie* perusal of the report submitted by the villager against the present Applicant does not show that Applicant was the one extracting sand. Pertinently said report of incident dated 10.08.2023 has been lodged on 16.08.2023. As far as present Applicant is concerned, except for the statement of co-accused there is nothing on record to indicate his involvement in the crime. Informant does not claim presence of the Applicant at the spot nor JCB or tractor for the use of excavation of the sand belongs to the Applicant. Nothing is to be recovered at the instance of Applicant.

7. In view of above, application stands allowed.

Hence, the order:

O R D E R

- (i) In the event of arrest of the Applicant in connection with with C.R. No. 137 of 2023 registered with Shiruananatpal Police Station, Dist. Latur for the offences punishable under Sections 379 read with 34 of the Indian Penal Code and Sections 48 of the Maharashtra Land Revenue Code, 1966 and

Section 21 of Mines and Minerals (Regulation and Development) Act, 1957, he shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) with one surety in the like amount.

- (ii) He shall attend the concerned police station as and when required.
- (iii) He shall not contact the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) He is further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)

Malani