

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1765 OF 2022

Uttam Baburao Bacchav ...Applicant
VERSUS
The State of Maharashtra and Another ...Respondents

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Mr. C.C. Deshpande, Advocate for the applicant.
Mr. A.V. Deshmukh, APP for respondents.
Mr. P.M. Nagargoje, Advocate for informant.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th FEBRUARY, 2023

ORDER :

1. Applicant apprehends arrest in Crime No. 380 of 2022, registered with Phulambri Police Station, District-Aurangabad for offence punishable under sections 378, 379, 405, 406, 409, 420, 465, 468, 471, 120B of the Indian Penal Code.

2. FIR is lodged by Manoj Kapure, an employee of Forest Department, alleging that contract of cutting and transportation of trees on Aurangabad- Jalgaon road was given to one Rutvik Lanco Joint Venture. It is alleged that said company entered into contract with Jay Babaji Firewood Suppliers owned by the present applicant. Applicant engaged Accused No. 1 to 6 as his partners. Accused in collusion with

Forest Department prepared bogus transport passes and misappropriated the wood. The vehicles used for transportation of wood are like moped, luna and two wheeler and accused persons have deceived the Government.

3. Heard the learned advocate for the applicant, learned Additional Public Prosecutor for respondents and learned advocate for informant. Perused the investigation papers.

4. Present applicant is named as Accused No. 7 in the FIR. According to the learned advocate for the applicant he has given sub contract to other accused persons and only for initial period of six months he has cut the trees and transported them. Thereafter, other accused persons were responsible for cutting trees and the transportation. Learned advocate for the applicant by relying on agreement entered into between the applicant and sub contractor submits that the applicant has no role to play in the entire episode. He further relied on inquiry report of Forest Department wherein it is alleged that there is no revenue loss to the Government in the said incident.

5. Learned Additional Public Prosecutor on the other hand by relying on investigation papers submits that applicant

has played major role in the alleged offence and his custodial interrogation is necessary for effective investigation. It needs to be ascertained from the applicant as to where exactly the wood which was cut is sold and how bogus passes were prepared and used.

6. Learned advocate for informant submits that he has obtained information under Right To Information from the Forest Department and he was informed that Rutvik Lanco Joint Venture has not given any contract in favour of present applicant and there is no partnership deed on the record of Forest Department, which is allegedly executed by the applicant, with other partners giving sub contract of cutting and transportation of trees.

7. It appears from the investigation papers that vehicle numbers mentioned in the transport passes do not tally with the information provided by Regional Transport Office. In some of the passes necessary information is not filled. It is mentioned in the report of Forest Department that accused persons have committed forgery in respect of transport passes. Custody of the applicant is necessary for recovery of forged passes. The applicant was given contract for cutting and transport of wood.

8. Though, applicant claims that he had given sub contract, but the said statement is not acceptable in view of information given to the informant under Right to Information Act. Considering serious allegations and large extent of crime, thorough and effective investigation needs to be done by taking the applicant in custody.

9. The applicant claims to have co-operated in the investigation, but said claim is refuted by the learned Additional Public Prosecutor saying that applicant is not properly co-operating in the investigation. Considering the investigation papers and the fact that large quantity of wood was cut and transported on bogus passes and the applicant being kingpin, it is not a fit case to exercise discretion in favour of the applicant. The application is therefore rejected.

10. At this stage, learned advocate for the applicant prays for continuation of interim protection for a period of two weeks. Interim protection granted earlier to continue for a period of two weeks from today.

[NITIN B. SURYAWANSHI, J.]