

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 746 OF 2022

Raosaheb Govind Gavade

... Applicant

v/s.

The State of Maharashtra

.... Respondent

WITH

BAIL APPLICATION NO. 884 OF 2022

Sagar Tanaji Masal

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Sandesh Patil a/w. Chintan Shah i/b.

Ms. Divya Arvind Pawar Patil for the Applicant in BA/746/2022.

Mr. Shriram Chaudhari for the Applicant in BA/884/2022.

Mrs. A.A. Takalkar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st APRIL, 2023.

P. C. :-

. These Applications under section 439 of Cr.PC. are filed by the aforesaid Applicants who are facing trial in Sessions Case No.7/2022 pending on the file of Additional Sessions Judge, Pandharpur arising out of C.R.No.630/2021 registered with Mangalwedha Police Station for offences punishable under sections 279, 302, 333, 353, 379 of the Indian Penal Code, sections 9 and 15 of the Environment (Protection) Act, 1986 and sections 39, 192(1) of the Motor Vehicles Act.

2. Heard learned counsel for the Applicants and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Sanjay Metkari, a police patil. It is the case of the prosecution that on 25/09/2021, at about 09:28 a.m., when he had gone to Hatson Dairy to collect the summons from the Constable – Sonalkar, he saw one vehicle without number plate proceeding towards Shirsi Village. Said Sonalkar tried to stop the said vehicle which was carrying illegally extracted sand. It is stated that the co-accused deliberately ran over the vehicle and mowed down the constable – Ganesh Sonalkar.

4. The records reveal that the Applicants herein were not present at the place of the incident and they were not involved in causing the death of the deceased-Sonalkar. The only allegation against the Applicant-Raosaheb is that he was involved in committing theft of illegally extracted sand and thus, committed offence under section 379 of IPC and sections 9 and 15 of Environment Protection Act. Whereas the Applicant-Sagar Masal is the owner of the vehicle which was involved in carrying the illegally extracted sand. He has been charged

for offences punishable under sections 192(1) of Motor Vehicles Act. Both these Applicants are in custody since September, 2021.

5. Considering the nature of the accusations against the Applicants, who as stated earlier, are not involved in committing murder of the deceased, in my considered view, this is a fit case to exercise discretion under section 439 of Cr.P.C. Hence, the Applications are allowed on the following terms and conditions :-

- (i) The Applicants - Raosaheb Govind Gavade and Sagar Tanaji Masal who are facing trial in Sessions Case No.7/2022 pending on the file of Additional Sessions Judge, Pandharpur arising out of C.R.No.630/2021 registered with Mangalwedha Police Station, are ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.25,000/- each with one or two solvent sureties in the like amount ;
- (ii) The Applicants shall report to Mangalwedha Police Station in two months on 1st day of the month till framing of the charge ;
- (iii) The Applicants shall not interfere with the witnesses and

shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

- (iv) The Applicants shall keep the Trial Court informed of their current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicants shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

6. Bail Applications stand disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)