

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.1344 OF 2023

Chand Dagadu Shaikh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1347 OF 2023**

Yogesh Udaykumar More & Anr.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

Mr. Umesh Pawar, for the Applicant in both the ABA Applications.

Mr. Amit A. Palkar, APP for the State-Respondent in both the ABA Applications.

CORAM : AMIT BORKAR, J.

DATED : JUNE 12, 2023

P.C.:

1. Both the applicants are seeking relief under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') in connection with C.R.No.270 of 2023 registered with Daund police station, District Pune for the offences punishable under Sections 439, 379, 511 r/w 34 of the Indian Penal Code (for short 'IPC') and under Sections 4 and 21 Mines and Mineral (Development and Regulation) Act, 1957 and under Sections 9 and 15 Environment Protection Act, 1986.

2. According to the prosecution, on 11 April 2023 at 01:53

hours, the informant-Talathi alleged the report with respondent police station alleging that on 10 April 2023 at about 14:00 hours when he along with some revenue officials were present in the Tahsil office Daund, that time they received the secret information that in the bank of Bhima river at Rajegaon, some persons were illegally excavating the sand with the help of boats from Bhima river. Accordingly, they conducted raid in Bhima river and looking at there those persons involved in fled away from the spot by keeping their boats at the side of river. However, while fleeing away from the spot, the informant identified the accused and thereafter, boats were seized and destroyed by making report. He, therefore, alleged report with the concerned police station. The applicants, therefore applied for relief under Section 438 of Cr.P.C., which has been rejected by learned Sessions Judge an order dated 21 April 2023.

3. This Court by an order dated 4 May, 2023 granted protection to the applicants and directed them to attend the concerned police station from 8 May 2023 to 10 May 2023 and co-operate with investigation. Accordingly , there is no dispute, that the applicants have co-operated with the investigation.

4. On perusal of the case papers and the material on record, since, the statement of witnesses have been recorded and the applicants have co-operated with investigation, custodial interrogation of the applicants is not required. Therefore, applicants are entitled to relief under Section 438 of Cr.P.C., hence, following order:

- a) In the event of arrest in connection with C.R. No.270 of 2023 registered with Daund police station, District Pune for the offences punishable under Sections 439, 379, 511 r/w 34 of IPC and under Sections 4 and 21 Mines and Mineral (Development and Regulation) Act, 1957 and under Sections 9 and 15 Environment Protection Act, 1986, applicants shall be released on bail on furnishing P.R. bond of Rs.50,000/- each, along with one or two sureties in the like amount.
 - b) The applicant shall cooperate with the investigation and make themselves available for interrogation whenever required
 - c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
 - d) The applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.
 - e) The applicants shall, at the time of execution of the bond, furnish their address and mobile numbers to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.
5. The Anticipatory Bail Applications stands disposed of.

(AMIT BORKAR, J.)