

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO.403 OF 2023**

Sandip Kawduji Upase

Vs.

State of Maharashtra through Police Station Officer, Police Station, Ghuggus, District  
Chandrapur

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Mr. Mir Nagman Ali, Advocate for applicant.  
Mr. I. J. Damle, APP for respondent/State.

**CORAM : URMILA JOSHI-PHALKE, J.**

**DATED : 19/07/2023**

1. The present application is for anticipatory bail in the event of arrest in connection with Crime No.172/2023 registered at Police Station, Ghuggus District Chandrapur for the offence punishable Section 379 of read with Section 34 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of police as the crime is registered on the basis of report lodged by Vishal Chandrakant Hud on an allegation that he has received the secret information that some persons are excavating the sand illegally from the bank of Wardha River and transporting it in a tractor on Wardha to Pandharkawada road thereafter, the complainant has visited the spot and observed that one tractor bearing No. MH-34-L-8273 wherein the sand was illegally transported. The persons who were along with

the vehicle fled away by abandoning the vehicle but they were apprehended. On inquiry, they have disclosed their names. The present applicant is the owner of the said vehicle.

3. As per the contention of the present applicant, he is falsely implicated in the alleged offence. The driver of the tractor has taken the vehicle without his knowledge. He is not at all concerned with the alleged offence. Now, the sand is already recovered. His physical custody is not required and hence, he be protected by granting ad-interim protection.

4. The said application is strongly opposed by the State. The learned APP submitted that there are criminal antecedents against the present applicant. The aforesaid tractor was intercepted and after watching the police staff the persons who were sitting in the tractor fled away. The Police staff chased the said persons and were taken into custody. Considering the criminal antecedents against the present applicant, as four offences are registered against him, the bail application deserves to be rejected.

5. Heard learned Counsel Mr. Mir Nagman Ali, for the applicant. He submitted that the applicant was not present at the spot when the tractor and the persons were accosted. The driver has taken the tractor without

his knowledge. Now the sand is already recovered. As far as the criminal antecedents are concerned, he is acquitted from all the four offences after the trial. Thus, now, there are no criminal antecedents against the present applicant. The judgment of the acquittal is not challenged by the State. In view of that, he be released on anticipatory bail.

6. The learned APP submitted that considering the criminal antecedents, the application deserves to be rejected.

7. Having heard both the sides. On perusal of the investigation papers. The statements of the witnesses are recorded. As per the allegation, the present applicant fled away on the motorcycle when the tractor was intercepted by the investigating agency. Admittedly, the sand is already recovered by the investigating agency. As far as the custodial interrogation of the present applicant is concerned, nothing is to be recovered from him. As far as criminal antecedents are concerned, the applicant is already acquitted from all the four offences, therefore, now no criminal offence is pending against the present applicant. The physical custody of the present applicant is not necessary, as the sand is already recovered and as far as the interrogation is concerned, the conditions can be imposed on the applicant. In view of that, application

deserves to be allowed. Accordingly, I proceed to pass following order.

**ORDER**

- (i) The application is allowed.
- (ii) The applicant **Sandip Kawduji Upase** is released on anticipatory bail in the event of arrest, in connection with Crime No.172/2023 registered with Police Station, Ghuggus, District Chandrapur for the offence punishable under Section 379 of read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall attend Police Station and shall cooperate the investigating agency as and when required.
- (iv) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.
- (v) The applicant shall not indulge in a similar type of the offence in contravention of any of the conditions, the bail granted to the applicant deserves to be cancelled.

**(URMILA JOSHI-PHALKE, J.)**

Sarkate