



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO. 447 OF 2023

(Balkrishna s/o Motiram Koram and anr. Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.R. Galande, Advocate for the applicants.
Shri I.J. Damle, APP for the State.

CORAM :- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 18, 2023.

Heard.

2. Present application is for grant of anticipatory bail in the event of arrest of the applicants in connection with Crime No.707/2023 registered at police station Ram Nagar, Chandrapur, District Chandrapur for the offence punishable under Sections 180, 186, 379, 353, 427 read with Section 34 of the Indian Penal Code and Section 50 of the Central Motor Vehicles Rules, 1989.

3. The applicants are apprehending arrest at the hands of police as crime is registered against them on the basis of report lodged by Pratibha Neelkanth Yerne serving as a Tahsildar on an allegation that on 24/06/2023 at about 7.30 a.m. when the informant was proceeding with one labour towards Ajaypur Godsawari Sand Ghat for discharging her duty, at about 7.50 a.m. near one Dhaba she has witnessed one tractor transporting the sand illegally. She along with the other officials restrained the tractor and after inspection, it

revealed that the tractor driver was carrying the sand by his excavating skill without any permit. On the basis of said report, police have registered the crime against the present applicants.

4. As per the contention of the present applicants, they are falsely implicated in the alleged offence. In fact, they never transported the sand in the vehicle, and therefore, question of having royalty does not arise at all. The sand is now already recovered. The tractor in which the alleged sand was transported is also seized. The custodial interrogation of the present applicants is not required and they be protected by granting anticipatory bail.

5. Said application is strongly opposed by the State on the ground that during investigation it reveals that the present applicants were not having the license to excavate the sand and transports the sand but they illegally excavated the sand and transported the same. *Prima facie* case is made out against them, and therefore, the bail application deserves to be rejected.

6. Heard learned Counsel for the applicants and learned Additional Public Prosecutor for the State.

7. Perused the investigation papers. From the investigation papers, it reveals that the applicants who were in possession of the said tractor were found transporting the sand in the said tractor illegally. During

investigation, the sand was recovered as well as the tractor was also seized. As far as the investigation part is concerned, the custodial interrogation of the present applicants is not required as incriminating articles are already recovered by the Investigating Officer. The other part of the interrogation is concerned for which some conditions can be imposed on the present applicants. In view of that the application deserves to be allowed by passing following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicants 1) Balkrishna s/o Motiram Koram and 2) Prakash s/o Waman Tajne in Crime No.707/2023 registered at police station Ram Nagar, Chandrapur, District Chandrapur for the offence punishable under Sections 180, 186, 379, 353, 427 read with Section 34 of the Indian Penal Code and Section 50 of the Central Motor Vehicles Rules, 1989, be released on anticipatory bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) each with one surety each, in the like amount.

(iii) The applicants shall attend concerned Police Station as and when required for the investigation purpose.

(iv) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(v) The applicants shall not indulge themselves in the similar type of the activities.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*