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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 BAIL APPLICATION NO. 77 OF 2024

Irshed @ Irshad Mohammad Shaikh

VERSUS

The State of Maharashtra

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Advocate for Applicant : Mr. Avinash A. Khande

APP for Respondents: Mrs. Pratibha J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.

DATED : 29th JANUARY, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of Cr.P.C. in connection with crime No. 519 of 2023 registered with Degloor police station, Degloor, District Nanded, for the offences punishable under Sections 353, 379 r.w. 34 of I.P.C. and Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966 and Sections 4, 15 and 21 of Environmental Protection Act, 1986. His application with similar prayer bearing criminal bail application No. 277 of 2023 came to be rejected by the learned Additional Sessions Judge, Biloli, vide order dated 02.01.2024.

2. The informant, who is Talathi of Degloor, Tq. Degloor, District Nanded, averred in the report that as per the directions of the Assistant Collector, Degloor, dated 7.11.2023, he had proceeded to control and prevent the theft of sand on 20.12.2023 at about 5.30 a.m. He came to know that theft of sand is going on at Narangal Mandal. He planned to keep watch on the theft of sand on 20.12.2023 at about 5.30 a.m. As

per the directions of the sub Divisional Officer, the Assistant Collector, Sub Division, Degloor, he alongwith other three Talathis went on the spot and found that the applicant and other accused were committing theft of sand. He has stopped them. The present applicant is the driver of the tractor in which the sand was being taken away. There was one brass of sand of read colour in the trolley of tractor. When the driver i.e. the applicant was asked about the permission and licence for excavating the sand, he told that there is no such permission. The informant directed the applicant to come to the police station alongwith the tractor and sand. They all went to the police station. The crime was registered.

3. Learned counsel for the applicant submitted that the incriminating articles have been seized. The applicant has no criminal antecedents. He will not flee away from trial. The trial will take long period. He therefore, prayed to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and contended that the applicant is involved in serious crime. The applicant is found on the spot while committing the theft of sand. Learned A.P.P. lastly prayed to reject the application.

5. Perused the papers of investigation. The practical investigation is over. The applicant has roots in the society. There are no antecedents. The applicant will not flee away from trial. The trial will

take long period. Considering the nature of offences, the application deserves to be allowed on certain conditions,. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 519 of 2023 registered with Degloor police station, Degloor, District Nanded, for the offences punishable under Sections 353, 379 r.w. 34 of I.P.C. and Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966 and Sections 4, 15 and 21 of Environmental Protection Act, 1986, be released on bail on furnishing personal bond of Rs.15,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence and shall not pressurize the prosecution witnesses, in any manner.
 - b) The applicant shall not indulge in similar type of offences in future.
 - c) The trial court may proceed against the applicant for cancellation of bail if he commits similar type of offence/s in future, on the application of the investigating officer or the prosecution.

(SANJAY A. DESHMUKH, J.)