



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.345 OF 2024

Juned S/o Mohammad Shaikh

... Applicant

VERSUS

The Superintendent of Police
And Another

...Respondents

.....
Mr. Avinash A. Khande, Advocate for Applicant
Mr. S.P. Sonpawale, APP for Respondents-State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th MARCH, 2024

ORDER :

1. Applicant apprehends arrest in Crime No.519 of 2023 registered with Degloor Police Station, District-Nanded for offences punishable under sections 353, 379 read with section 34 of the Indian Penal Code and under sections 48(7), 48(8) of the Maharashtra Land Revenue Code and under sections 4, 15 and 21 of the Environment Protection Act.

2. FIR is lodged by Dnyaneshwar Govindrao Ratolikar, Talathi, Sajja Degloor alleging that on 28.12.2023, he along with other revenue officials was patrolling for prevention of illegal theft of minerals. At about 6.30 a.m., they went to old Medankallur to Tamloor road. They noticed one unregistered

green colour Tractor coming from Kasi Nala. They asked the driver to stop but he tried to flee away. Anyhow he was stopped. He was transporting one brass sand without any permit. While the Tractor was taken to the Police Station Degloor, the present accused (applicant) came in a car and obstructed them. He started misbehaving with them. Noticing senior revenue officials coming there he ran away.

3. Heard learned advocate for applicant and learned APP for respondents-State. Perused the investigation papers.

4. Learned APP strenuously opposed the application contending that earlier also nine similar offences are registered against applicant and he is repeatedly indulging in illegal transportation of sand.

5. Perusal of FIR and statements of witnesses present on the spot reveals that there are no allegations of use of criminal force or assault, which are essential ingredients of section 353 of the Indian Penal Code. Since the essential ingredients are absent, applicant is entitled for protection.

6. Applicant's driver is already arrested and Tractor is seized, therefore, pre-trial custodial detention of applicant is not necessary in the facts of the present case.

7. Application is therefore allowed. In the event of arrest of applicant Juned S/o Mohammad Shaikh in connection with Crime No.519 of 2023 registered with Degloor Police Station, District-Nanded for offences punishable under sections 353, 379 read with section 34 of the Indian Penal Code and under sections 48(7), 48(8) of the Maharashtra Land Revenue Code and under sections 4, 15 and 21 of the Environment Protection Act, he be released on bail on executing Personal Bond and Surety Bond of Rs.15,000/- each with one surety each in the like amount.

8. Applicants to attend the concerned police station from 23.03.2024 to 06.04.2024, everyday between 10.00 a.m. to 12.00 noon and shall co-operate in the investigation. Applicant shall not indulge in similar offence and shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE