



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 673 OF 2024

Samadhan S/o Hiranman Potfode

Age: 34 years, Occu.: Labour & Agriculture,

R/o. Rakshasbhuwan,

Tq.Gevrai, Dist.Beed.

..Applicant

Versus

1. The State of Maharashtra
(Through Police Inspector,
Gondi Police Station, Gondi,
Tq.Ambad, Dist.Jalna)

2. Superintendent of Police,
Dist.Jalna.

..Respondents

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Advocate for Applicant : Mr. Deepak Kashiram Rajput

APP for Respondents : Mr.A.R.Kale

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 09 MAY, 2024

PRONOUNCED ON : 10 MAY, 2024

ORDER :-

1. Apprehending arrest in Crime no.0070 of 2024 registered at Gondi Police Station, Dist.Jalna for offence under Section 379 read with 34 of the Indian Penal Code (IPC) and under Sections 3 and 4 of the Mines Act, applicant has preferred instant application for anticipatory bail.

2. In support of relief, learned Counsel for the applicant took this Court through the FIR and pointed out that applicant is shown to be

accused no.4. That infact he had not stolen any sand from the river bed. FIR is on hearsay information. He pointed out that merely because applicant's agricultural land happens to be near river bed, he has been implicated. It is pointed out that FIR is lodged almost after five days of incident. That other four accused are already beneficiary of anticipatory bail. Therefore, he also claims relief on parity ground and further undertakes to co-operate in investigation by abiding all conditions to be imposed by this Court.

3. While opposing application, learned APP pointed out that role of present applicant. That investigation revealed that present applicant has made special way available to other accused to illegally excavate and transport sand. That panchanama of the spot is drawn. Further according to learned APP, there is possibility of misuse of liberty and for all above reasons, he prays to refuse relief.

4. Perused the FIR dated 27-02-2024. Apparently on receipt of tip, revenue authorities conducted raid on the banks of river Godawari on 22-02-2024. That sand worth Rs.48,00,000/- was found to be stolen. In the FIR, as many as nine persons were found to be involved in stealing sand and according to informant, five persons facilitated the theft by creating special way. Apparently

regarding occurrence of 22-02-2024, FIR is registered on 27-02-2024. Statement is made across the Bar that applicant's agricultural land happens to be situated at very banks of river bed. Therefore, considering the nature of allegations and in view of above discussion, relief as prayed deserves to be granted.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicant – Samadhan S/o. Hiranman Potfode in connection with Crime No.0070 of 2024 registered with Gondli Police Station, Dist.Jalna, for offence punishable under Section 379 read with 34 of the IPC and under Sections 3 and 4 of the Mines Act, he be released on bail on executing Personal Bond and Surety Bond of Rs.25,000/- with one surety in the like amount.
- (iii) Till filing of chargesheet, applicant shall attend the concerned Police Station as and when called by the Investigating Officer.
- (iv) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE)
JUDGE