



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2626 OF 2023

Satish Laxman Mahajan,
Age-48 years, Occu:Business,
R/o-236, Shanipeth, Near Datta Mandir,
Jalgaon, Taluka and District-Jalgaon.

...APPLICANT

VERSUS

The State of Maharashtra,
Through its Jilha Peth Police Station,
Jalgaon, District-Jalgaon.

...RESPONDENT

...
Mr. Vijay B. Patil Advocate for Applicant.
Mr. N.R. Dayama, A.P.P. for Respondent - State.

...

**CORAM: SMT. VIBHA KANKANWADI AND
R.W. JOSHI, JJ.**

DATE : 13th NOVEMBER, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the proceedings i.e. R.C.C. No.995 of 2022 pending before the learned Chief Judicial Magistrate, Jalgaon arising out of the First Information Report (for short "the

FIR”) vide Crime No.410 of 2022 registered with Jilha Peth Police Station, Jalgaon on 4th June 2022 for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code. The present accused is original accused No.3.

2. Heard learned Advocate Mr. Patil for the applicant and learned APP Mr. Dayama for the State. In order to cut short, it can be stated that both the sides have made submissions in support of their respective contentions.

3. Perusal of the FIR which is lodged by the Police Head Constable on behalf of the State would show that he along with other police officers was on patrolling duty on 4th June 2022. His superior received secret information around 17.00 hours stating that the illegal transportation of illegal excavated sand is going on and would pass through Akashwani Chowk and therefore, all the police officers went to Akashwani Chowk. Dumper bearing No.MH-19-Z-3336 filled with sand came from Prabhat Chowk and was going towards Bhusaval. The said vehicle was intercepted. The driver could not produce the license for transportation of the sand. So also there was no GPS system and the sand was not covered with tarpaulin. The driver told his name as Devidas Nawal Raising and stated that vehicle belongs to one Pramod

Bhimrao Nannaware. The Dumper was containing four brass of sand worth Rs.10,000/-. That vehicle was followed by another Dumber bearing No.MH-19-BM-7557. It was intercepted and inspected. It was also containing about four brass of sand. The driver thereof could not produce the license to transport the sand. There was no GPS system and there was no tarpaulin. The driver told his name as Satish Laxman Mahajan i.e. present applicant and told that he is the owner of the vehicle also. The said vehicle was followed by another vehicle i.e. Dumper bearing No.MH-19-CY-4137. Thus, it appears from the FIR that three Dumpers were seized containing around 12 brass of sand. The present applicant was taken in custody along with sand at the spot.

4. Perusal of the contents of the charge-sheet would show that the FIR is supported by the statements of the witnesses who are mainly police officers. There is a panchnama of seizure of vehicle and further it is to be noted that the said vehicle was directed to be released under Section 457 of the Code of Criminal Procedure by the learned Magistrate in favour of the present applicant. Therefore, he has executed bond. All these pieces of evidence are against the applicant and therefore, this is

not a fit case where the inherent powers are required to be exercised.

5. Another important fact to be noted is that the learned APP has produced on record the daily status in the matter and it appears that as the accused i.e. present applicant also was not remaining present, a non-bailable warrant has been issued. Learned Advocate for the applicant has confirmed the said fact. He tried to submit that the applicant would appear before the learned Magistrate and would pray for cancellation of warrant. However, we are not inclined to allow the applicant to take such steps as a condition precedent for exercising our powers. Independently, he may take up that proceedings which may be advised. However, when non-bailable has been issued against the applicant, there is sufficient room to believe that he is not following the procedure and therefore, the discretionary relief cannot be granted to such person.

6. The Application stands rejected.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE