



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1599 OF 2024

JAMIL SADIQ TUNDIWALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. K. R. Yadav h/f Mr. S. J. Salunke, Advocate for the applicant
Mrs. M. L. Sangit, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 4th OCTOBER, 2024

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 199/2024 registered with Badnapur Police Station, District Jalna for the offences punishable under Sections 353, 327, 341, 294, 379, 279, 504, 506, 143, 147, 149, 186, 188 of the Indian Penal Code, Section 135 of the Maharashtra Police Act and Sections 3 and 4 of the Mines and Minerals Act.

2. First informant, a police personnel has alleged that there was illegal excavation of sand at Saygaon Dongargaon Shivar in the riverbed of river Dudhna. When the spot was raided along with revenue authorities, vehicles were found loaded with sand. Said vehicles were seized. There is allegation that present applicant and the co-accused obstructed the police personnel and revenue authorities from taking away the said vehicles. It is alleged that one of the accused has snatched

mobile phone as well as cash from one of the police personnel. On the basis of this report, applicant is apprehending arrest.

3. Learned counsel for the applicant submits that the applicant has obtained license from excavation of the sand in the riverbed of Dudhna at Saygaon. He has placed on record the license issued to him of excavation for the period from 20/12/2023 to 09/06/2024. It is his submission that without ascertaining the fact as to where the excavation work was done, the seizure has been made by the authorities. According to him, since all the vehicles along with the sand are seized, nothing is to be recovered at his instance. He makes a statement that the applicant has no criminal history.

4. Learned APP opposed the application by relying upon the first information report, statements of witnesses as well as panchnama drawn at the time of seizure of the vehicles along with sand. It is her contention that the applicant does not have any license to excavate sand from gut no. 71, however, excavation was done from said land. Thus, according to her it is not the case for grant of anticipatory bail.

5. Perusal of first information report does not indicate the exact place i.e. gut numbers where the raid is conducted. Though it is mentioned in the panchnama that the place of conducting of raid is gut nos. 71 and 72, the license of the applicant to excavate sand indicates

that he was permitted to do so from gut no. 72. Thus, unless there is some material on record to indicate that the sand was excavated from the land beyond license, no offence can be said to have been made out against the applicant. In any case there is no question of any recovery against him as the entire material is already recovered. Hence, application is allowed in following terms.

ORDER

- (i) In the event of arrest of applicant in connection with Crime No. 199/2024 registered with Badnapur Police Station, District Jalna for the offences punishable under Sections 353, 327, 341, 294, 379, 279, 504, 506, 143, 147, 149, 186, 188 of the Indian Penal Code, Section 135 of the Maharashtra Police Act and Sections 3 and 4 of the Mines and Minerals Act, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount.
- (ii) He shall attend the concerned police station once in a week.
- (iii) He shall not contact the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI, J.)

ssp