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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.2061 OF 2023

Kiran Vitthal Nikam

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

.....
Mr. Ujwal Subhash Patil, Advocate for the applicant
Mr. D. B. Bhange, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd FEBRUARY, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 331 of 2023 registered with Waluj Police Station, District - Aurangabad for offence punishable under section 353, 379 of the Indian Penal Code and u/s 21 (1) & 21 (2) of the Mines and Minerals Act and u/s 48 (7) of the MLRC.

2. FIR is lodged by Vijay Ramdas Girbone, Talathi of village Dhamori (Bk), Taluka - Gangapur, District - Chhatrapati Sambhaji Nagar, stating that on 6th October, 2023, as per order of Additional Tahsildar, Gangapur, informant apprehended one Hywa truck, while transporting sand unauthorizedly. On inquiry with the driver, he told name of owner as Kiran Vitthal Nikam

(Applicant). He also told that he does not have permit to transport sand. Informant called Circle Officer, Shendurwda. Driver called applicant. Applicant came on the spot and since the Hywa was parked on a bridge from which only one vehicle could pass and as a school bus was to pass from the said bridge, informant asked driver and applicant to take the Hywa on one side, at that time, applicant caught hold of collar of informant, scuffled with him and threatened him with tommy and emptied 4 to 5 brass of sand and fled with the truck.

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

4. Learned advocate for applicant submits that applicant is not the owner of the Hywa and he is falsely implicated in the crime.

5. During the course of investigation, driver of Hywa – Accused No.2 is arrested on 23rd January, 2024. He has confirmed that applicant is the owner of the said Hywa.

6. *Prima facie*, it appears that the applicant has used criminal force against on duty public servant and threatened and prevented him from discharging his official duty. Considering complicity of applicant and gravity of accusations that applicant

has used criminal force and thereby prevented on duty public servant from discharging his official duty, applicant does not deserve discretionary relief of anticipatory bail. Application is, therefore, rejected.

[NITIN B. SURYAWANSHI]
JUDGE

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