

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2442 OF 2024**

Sachin Chandrakant Jadhav	...	Applicant
vs.		
The State of Maharashtra and another	...	Respondents

Mr. Rahul Kadam a/w. Mr. Shardul Diwan and Mr. Vedant Babar for applicant.

Mr. Bapu V. Holambe-Patil, APP for respondent No.1-State.

Mr. Mahesh Randive, P.C., Indapur Police Station, District Pune Rural.

**CORAM : MANISH PITALE, J.
DATE : 12th SEPTEMBER, 2024**

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent No.1-State.

2. The applicant is apprehending arrest in connection with FIR No.0600 of 2024 dated 24.07.2024 registered at Indapur Police Station, District Pune Rural for offences under sections 328 and 3(5) of the Bharatiya Nyay Sanhita, 2023 (BNS); section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 and sections 9 and 15 of the Environment (Protection) Act, 1986.

3. The informant in the present case is Police Havildar and his statement has led to registration of FIR against the applicant and 3 co-accused persons. It is alleged that the 3 co-accused persons were found in a fiber boat and it

was suspected that they were transporting illegally extracted the minor mineral (sand). Upon being confronted and being told to take the boat on one side, according to the informant, the propeller fan of the boat came out, as a result of which water started entering into the boat. The 3 co-accused persons had to be rescued by the police itself and the fiber boat sank. It is stated that such illegally extracted sand of about 12 brass was being transported in the said fiber boat. The aforesaid statement led to registration of the offences against the accused.

4. The learned counsel for the applicant submits that the applicant was admittedly not found at the spot. He has been falsely roped in, on the basis of statements given by the co-accused persons. It is submitted that except the offence under section 328 of the BNS, none of the other offences prescribe any punishment of imprisonment. According to the applicant, in the absence of any link between the applicant and co-accused persons, the case of the investigating authority is far-fetched. The applicant is ready to co-operate with the investigation.

5. On the other hand, the learned APP submitted that the fact about the vessel running aground is very much stated by the informant. It is also specifically stated that about 12 brass of illegally extracted sand was transported, thereby indicating that theft was being committed. It is submitted that further investigation is necessary for bringing out the role of the applicant in the present case. It is submitted that the 3 co-accused persons found at the spot, are all residents of Jharkhand, while the applicant is a resident of Indapur itself and being an influential person, there is every likelihood that he may interfere with the investigation.

6. This Court has perused the material on record in the light of the rival submissions. The statement of the informant describes the incident as it took place, when the 3 co-accused persons were confronted, while travelling in the said fiber boat. The statement does refer to about 12 brass of illegally extracted sand being transported in the aforesaid fiber boat. It is further stated that upon being confronted, the 3 co-accused persons in the boat were told to take the boat on one side and at this stage, the propeller fan of the boat came out, as a result of which water started rushing in the boat and it sank. *Prima facie*, the description given in the statement of the informant does not really spell out as to in what manner the 3 co-accused persons found in the boat, intentionally ran the vessel aground, intending to commit theft of the illegally extracted sand.

7. Apart from this, presently only the statement of the co-accused person is the basis for the investigating authority to link the applicant with the incident in question. Although it is claimed that there are call detail records to show that the applicant was in touch with the co-accused persons, at this stage, the applicant has made out a *prima facie* case in his favour, as the statement of the informant appears to fall short of making out the basic ingredient of the offence under section 328 of BNS against the 3 co-accused persons, who were allegedly actually present in the fiber boat at the date and time of the incident.

8. The other offences registered against the accused persons do not provide for punishment of imprisonment and hence, the applicant has made out a *prima facie* case in his favour.

9. In view of the above, the application is allowed in the following terms:
- (i) In the event the applicant is arrested in connection with FIR No.0600 of 2024 dated 24.07.2024 registered at Indapur Police Station, District Pune Rural, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;
 - (ii) The applicant shall remain present before the Investigating Officer on 14.09.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required by the Investigating Officer.
 - (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;
 - (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.
10. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.
11. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.
12. The application stands disposed of.

(MANISH PITALE, J)