

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2762 OF 2024

Santosh Dattu Kothimbire

.....Applicant

VERSUS

The State of Maharashtra

.....Respondent

Mr. Pravin Uttam Gaikwad, with Mr. Shahrukh Siraj Shaikh, for Applicant.
Mr. Tanveer Khan, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 14, 2024

P.C. :

1. Heard, learned Counsel for the Applicant and learned APP for the State.
2. The Applicant is apprehending arrest in connection with the First Information Report No. 0323 of 2024 dated 1st May 2024 registered with the police station Daund, District Pune, for the offences punishable under Sections 379, 431 read with 34 of the Indian Penal Code and Sections 4 and 21 of the Mines and Mineral (Development And Regulation) Act, 1957 and Sections 9 and 15 of the Environment Protection Act, 1986.
3. The informant in the present case is a police constable. His statement shows that on the date and time of the incident when a team of police reached the spot of the incident, one JCB machine and three tractors and trolleys were being used for illegally excavating the sand from the river bed. It is alleged that although the co-accused, driver of one of the tractors was apprehended, two other co-accused persons including the Applicant escaped.
4. The learned Advocate for the Applicant submits that in the present case, other than the statement of the co-accused driver of the tractor-trolley,

there is nothing to link the Applicant to the incident in question. He further submits that, the alleged illegally excavated sand was seized at the spot and only because the tractor-trolley is registered in the name of the Applicant that he has been implicated in the present case.

5. The learned APP for the State, on the other hand, submits that the statement of the informant is absolutely clear as regards the involvement of the Applicant and therefore, this Court may not show indulgence to the Applicant.

6. This Court is of the opinion that for the present, the only material against the Applicant appears to be the fact that tractor-trolley is registered in his name. There is substance in the contention of the learned Counsel on behalf of the Applicant that the tractor-trolley was being given to certain individuals for use and that it itself cannot be an incriminating circumstance against the Applicant. This Court further finds that other than the statement of the co-accused driver of the tractor-trolley, there is lack of material to link the Applicant directly with the illegal act of excavating the sand (minor minerals).

7. The learned APP submitted that although the Investigating Officer is unable to confirm as to whether the Applicant has any criminal antecedents, the Sessions Court recorded that there was an antecedent in respect of the Mines and Mineral (Development And Regulation) Act, 1957. But, this factor in itself cannot be held against the Applicant.

8. Therefore this Court is inclined to allow the present Application.

9. In the light of the above, the application is allowed in the following terms.

A. Till the next date, in the event the Applicant is arrested in connection with the First Information Report No. 0323 of 2024 dated 1st May 2024 registered with the police station Daund, District Pune,

he shall be released on bail on furnishing Rs.25,000/- with one or two sureties in the like amount;

B. The Applicant shall remain present before the investigating officer on 16th October 2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;

C. The Applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.

D. In the event the Applicant violates any of the above conditions, this interim order will be liable to be recalled.

(MANISH PITALE, J.)

Arun Sankpal