



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 288 OF 2024

Vikas Deepak Harale and others V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Alveena Khan, counsel for Applicants (through V.C.)
Mr. M.J.Khan, APP for Non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/06/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 14/2024 registered with Police Station Dattapur, Tq. Dhamangaon Railway, District Amravati for the offence punishable under Sections 332, 353 and Section 379 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Gopal Dhanraj Nagrikar dated 24/01/2024, who was serving as Talathi at Dhamangaon Railway, District Amravati. As per the allegations, the complainant who was a member of the flying squad comprising of Tahsildar Shri Govind Wakade, another Talathi Dinesh Thakare and Vinod Maske etc., they received several complaints from Parsoda village Gramsanstha, regarding the theft of sand from a stream which is situated adjacent to village Parsoda, at Mauje Hingangao. On 23/02/2024, at about 10.00 p.m., the complainant

alongwith flying squad went to the stream at Mauje Hingangao, for conducting the raid. At the relevant time, they came across Tractor No. MH-27-BB 3288 which was attached with an unnumbered trolley, they intercepted the vehicle, and found that the trolley was having one brass of sand worth of Rs. 7000/-, and there was no valid license for the same. Applicant No. 2, as per the allegations ran away alongwith the vehicle and the sand. It is further alleged that applicant No.2 restricted the Public Officer by performing their duties, and also assaulted them. In the said incident, the Public Officer has sustained the injury. On the basis of said report, the police have registered the crime against the present applicant as well as other co-accused.

3. Learned counsel for the applicant submitted that the applicants are falsely implicated in the alleged offence. They are not at all concerned with the alleged offence, merely to take action against them, this false FIR is lodged against them. Now, the sand and the tractor is already recovered, custodial interrogation of the present applicant is not required.

4. Learned APP strongly opposed the said application on the ground that as far as applicant No.1 is concerned, the investigating agency did not require his custody, as his name is falsely mentioned. He further submitted that as far as applicant No.2 is concerned, who has actually created obstruction while performing his official duty, and pushed him, due to which, he has fallen on the ground and

sustained the injury. He submitted that applicant No.2 who fled away with the tractor alongwith trolley and sand, the said trolley and the sand is to be recovered, therefore custodial interrogation is required.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. During the investigation, the investigating officer has recorded the various statements of the witnesses, from which, it reveals that it was applicant No.2 who was taking the tractor and the trolley. The applicant No.1 was not present at the relevant time, it was the applicant No.2, who stated the name of the present applicant No.1 falsely.

6. Moreover, the statement reveals that applicant No.2 not only carried the sand illegally by excavating the same, but he obstructed the public servant from discharging their duties and assaulted them, due to which Gopal Dhanraj Nagrikar sustained the injuries. Admittedly for the grant of anticipatory bail, the considerations are different than the bail under Section 439 of the Cr.PC..merely because the custodial interrogation is not required, would not be sufficient to grant anticipatory bail. The gravity of the offence and the role of the applicant requires to be seen. Considering the statement of the witnesses, the prima-facie case is made out against applicant No.2, therefore, the prayer for applicant No.2 deserves to be rejected. In view of the above, the application is partly allowed. Accordingly, I proceed to pass the following order:

- a) The application is **partly allowed**.
- b) The applicant No.1- Vikas Deepak Harale shall be released on anticipatory bail, in connection with Crime No. 14/2024 registered with Police Station Dattapur, Tq. Dhamangaon Railway, District Amravati for the offence punishable under Sections 332, 353 and Section 379 of the Indian Penal Code, 1860, on executing P.R.Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant No.1 shall attend the concerned police station as and when required and shall cooperate with the investigating agency.
- d) The prayer for applicant No.2 for grant of anticipatory bail is hereby **rejected**.
- e) The applicant No.1 shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]