



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 ANTICIPATORY BAIL APPLICATION NO. 1521 OF 2025

SAMBHAJI PUNDALIK SABALE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. M. G. Patil, Advocate for Applicant
Mr. A. S. Shinde, APP for the Respondent/State

CORAM : MEHROZ K. PATHAN, J

DATE : 04.12.2025

P. C. :-

1. The Applicant approached this Court seeking anticipatory bail in Crime No. 0029/2024 for the offences under Sections 286, 427 r/w 34 of the Indian Penal Code (for short 'IPC') and under Section 3 of the Explosive Substances Act (for short 'the Act'), 1908 registered at Fattepur Police Station, District Jalgaon.

2. The learned counsel for the Applicant submits that the Applicant is the license holder for blasting work in connection with well, sinking/ road construction/ agricultural work etc., issued by the Government of India, Ministry of Commerce & Industry, Petroleum & Explosives Safety Organisation, Formerly the

Department of Explosives. The said certificate dated 08/09/2020 is also produced on record issued by the Controller of Explosive, West Circle, Mumbai. It is his submission that the offence under Section 3 of the Explosive Substances Act, cannot be made out against the Applicant as the basic ingredient for making out an offence under Section 3 of the Act would be that the blast or the explosives was carried out illegally or maliciously. The Applicant was doing his routine job of blasting work in connection with the well, sinking and as such cannot be said to have committed the offence under Section 3 of the Act. It is his further submission that the Sections 286 and 427 of the IPC are punishable for six months and two years respectively and as such the Applicant may be released on anticipatory bail.

3. Learned counsel further submits that the other co-accused, namely, the land owner Bhagwan Belokar at whose direction and order, the Applicant was carrying out the work of well construction, sinking, blasting work in the well, belonging to the main accused Bhagwan Belokar, has already been released on anticipatory bail by the learned Sessions Court by an order dated 13.01.2025 in Cri. Bail Application No. 1328/2024 passed by the

learned Addl. Sessions Judge, Jalgaon. It is his further submission that the other co-accused, namely, Avinash Sharad Tayade, Rajaram Pawar, Avinash Shinde are also released on regular bail after being arrested. The entire investigation is complete and thus, custodial interrogation of the Applicant may not be necessary as the Applicant is ready to abide by any terms and conditions that may be imposed by this Court.

4. As against this, the learned APP vehemently opposed the present application on the ground that the offences are serious in nature and that, despite requests made to the Applicant and the landowner not to carry out the blasting work, as it was causing damage to the complainant's house, they continued to carry out blasting in the well situated near the complainant's residence. He, therefore, submits that the offence under Section 3 of the Act is clearly made against the Applicant which is punishable with life imprisonment and hence the Applicant may not be released on bail. The recovery of the machinery would not be possible if the Applicant is released on bail.

5. I have gone through the investigation papers made

available by the learned APP. A perusal of the license document filed on record by the present Applicant shows that the Applicant is issued with a license of use of explosive by the Controller of Explosives, West Circle, Mumbai which was continued till 26.02.2025. The incident is dated 04.03.2024, thus when the blast work was done by the Applicant, he was legally having a license to carry out the said explosives for blasting work of well sinking as per the license dated 08.09.2020 issued by the Government of India. Another important aspect to be noted that there is a delay in lodging of the FIR. The incident is allegedly taken place on 04.03.2024 and the FIR is lodged on 04.04.2024. Moreover, the land owner who was also requested by the complainant to stop the blasting work, is already released by the learned Sessions Court vide order dated 13.01.2025. The investigation papers show that the investigation is almost complete. However, the Investigating Officer has issued communications to the concerned engineers of PWD to visit the site and ascertain the damage caused to the house of the villagers residing nearby, however, till date the PWD has given no response to the said request. The PWD had sought documents of ownership and permissions of construction from the

house owners whose houses are allegedly damaged due to the alleged blasting carried out by the Applicant, however, the house owner have failed to submit any documents.

. Thus, it appears that until an inspection is carried out by the PWD, after taking into consideration the date of construction, to ascertain whether the cracks appearing in the house are natural or were the result of the blasting carried out by the Applicant, the offence under Section 3 of the Act, *prima facie*, cannot be made out. Moreover, the Applicant being a license holder for use of explosive to carry out the blast work in well sinking, thus cannot be said to be illegally carrying out the explosions, which is one of the main ingredients of Section 3 of the Act. Thus, in my opinion, the Applicant can be protected. The apprehensions of the learned APP can be taken care of by asking the Applicant to cooperate with the investigation with necessary recovery and seizure which the learned counsel for the Applicant voluntarily agrees. Hence, the following order.

ORDER

- (i) In the event of arrest of the Applicant – Sambhaji Pundalik Sabale, he be released on bail on furnishing P.R. bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent

sureties in the like amount, in connection with Crime No.0029/2024 registered with Fattepur Police Station, District Jalgaon, for the offences punishable under Sections 286, 427 r/w 34 of the Indian Penal Code and under Section 3 of the Explosive Substances Act, 1908 on the following conditions:

(a) The Applicant is directed to attend the concerned police station and report to the Investigating Officer in a week on every Thursday and Friday, till filing of the additional charge-sheet, if any, thereafter as and when called.

(b) The Applicant shall not tamper with the evidence and shall appear before the Investigating Officer as and when required, apart from the days already mentioned above.

(c) The Applicant shall cooperate with the Investigating Officer and recovery of articles required for completion of investigation.

(d) The attendance of the Applicant shall be treated as deemed custody for the purpose of Section 23 of BNS Act.

6. Needless to mention that the violation of conditions shall entitle the prosecution to seek cancellation of bail.

7. Applications stand disposed of accordingly.

(MEHROZ K. PATHAN, J)

ssp