



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1950 OF 2023

1. Nilesh S/o Vilas Kawaste
2. Aabasaheb S/o Karbhari Bhandare

VERSUS

The State Of Maharashtra And Another

- Mr. S. S. Shaikh, Advocate for the Applicants
- Mr. S. B. Jadhav, APP for the Respondent/State

CORAM : R.M. JOSHI, J
DATE : JANUARY 07, 2025

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 336 of 2023 registered with Belwandi Police Station, Dist. Ahmednagar for the offences punishable under Section 379 of the Indian Penal Code and Section 3/15 of the Environment Protection Act.

2. First information report indicates that the Talathi of Shrigonda was informed by Sub-Divisional Officer with regard to the act of commission of theft of earth by some persons. He, therefore, went to the spot near river Ghod. It was found that the excavation was done and earth was being loaded in the Hyva. When the raiding party reached to the spot, persons ran

away. There is allegation that present Applicants are responsible for the said attempted theft.

3. Learned Counsel for the Applicants submits that there is no allegation of actual commission of the theft and as such, for the purpose of recovery of anything, their custodial interrogation is not necessary. He submits that Applicant No. 1 was present at his workplace at Pune which is at the distance of about 100 kms from the spot. It is his further submissions that Applicant No. 2 is not the owner of the vehicles which were allegedly found at the spot.

4. Learned APP opposed the application by referring to the CDR of Applicant No. 2 to claim that he was present at the spot.

Learned Counsel for the Applicants responded to the said submissions by pointing out that Applicant No. 2 is the resident of the said village and hence, CDR is bound to reflect the same.

5. Learned APP was called upon take instructions with regard to the material placed on record by Applicant No. 1 indicating his presence at his

workplace i.e., Mahindra and Mahindra Limited, Chakan, Pune at relevant date. On instructions from the investigating officer, learned APP makes statement that the Applicant No. 1 was found at workplace at the relevant time.

6. As far as Applicant No. 2 is concerned, a statement is made across the bar on instructions of Applicant No. 2 that this Applicant Aabasaheb S/o Karbhari Bhandare is not the owner of the vehicles which are mentioned in the FIR. This statement is accepted.

7. By accepting the said statement and also in view of the fact that there is no statement of the witnesses that Applicant was present at the spot, application deserves to be allowed. In the result, application stands allowed by confirming interim order dated 30.11.2023.

(R.M. JOSHI, J.)