



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 2195 OF 2024

Ashok @ Balu Udhavrao GhugeApplicant

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. A. T. Jadhavar, Advocate for Applicant.

Mr. A. M. Phule, APP for the State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 18 JUNE, 2025.

P. C. :

1. This is an Application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (for short '**BNSS**') as the Applicant apprehends arrest. This proceedings arises out of C.R. No. 0272/2024 in respect of which the First Information Report (for short '**FIR**') dated 7 December 2024 has been lodged by the Bori Police Station, District Parbhani.

CASE IN FIR :

2. The FIR has been lodged under Sections 132, 303(2), 318(4), 3(5) of the Bharatiya Nyaya Sanhita (for short '**BNS**') and under Sections 48(7) and 48(8) of the Maharashtra Land Revenue

Code (for short '**MLRC**'). The Complainant is one Vikram Shankarrao Ukande, who is the Sub Divisional Police Officer, Jintur.

3. The FIR discloses that at about 10.30 am on 7 December 2024, the Complainant along with Assistant Superintendent of Police one Beniwal and police driver B. No. 221, were on patrolling duty within the jurisdiction of Bori Police Station. While patrolling, they saw one Hyva Tipper No. MH 22 AN 3553 overtaking their vehicle near Mak Pati. They saw the said vehicle is carrying sand. They tried to stop the vehicle but despite giving signal, the driver was trying to escape. In such circumstances, the vehicle was chased. At around 12.50 hours, they managed to stop the vehicle ahead of Kok Pati bridge on Parbhani-Jintur road. On enquiry, the driver of the vehicle revealed his name as one Dnyaneshwar Dattarao Ghuge, resident of Ambarwadi, Tq. Jintur and another person sitting beside him revealed his name as Ashroba Nivrutti Chate. They informed that the tipper owner Balu Uddhavrao Ghuge is following them with permit. They further revealed that the sand was brought from Purna river bed located at Savangi (Bk), Tq. Basmat, Dist. Hingoli. After some time, one black colour Scorpio NO. MH 22 AW 3550 came from opposite direction and parked their vehicle in front of the police

vehicle. The driver and other three persons alighted from the Scorpio and the driver started talking arrogantly. The permit/receipt was handed over to them. A moment later, Government jeep of Bori Police Station came there and on seeing police, the Scorpio driver along with three persons fled from the spot leaving Scorpio vehicle there on the spot. One Gopal Vinde was one amongst them who came in the said Scorpio car. On verifying the permit, they found that the said receipt was prepared at 1.04 pm. the vehicle was apprehended at 12.50 pm. Ramprasad Motiram Pawar was the sand depot holder. Thus, the owner, driver of the Tipper and depot holder have cheated the Government. The FIR discloses that 5 brass sand worth Rs.30,000/- and the vehicles have been seized. In such circumstances, the FIR was lodged.

SUBMISSIONS :

4. Mr. Jadhavar, learned Advocate for the Applicant, would at the outset draw the attention of the Court to the permit (at Page No. 13 of the Application) to demonstrate that at the relevant time there was a legal and valid permit in existence. This is to refute the prosecution's allegation that there was no legal/valid permit in respect of the transportation of sand. He would next submit that

under the provisions of the MLRC, the presence of a Revenue Officer is mandatory at the time of interception of the vehicle. Such requirement has not been followed much less complied with in the proceedings. He would then submit that there is no role attributed to the present Applicant except to state that he was one amongst the persons present in the Scorpio car. He would submit that protection was granted in favour of the Applicant by order dated 27 December 2024 which was continued subsequently. He was thereafter never called by the Investigating Officer of the said Police Station for any further investigation. According to him, the driver and the person accompanying him in the tipper vehicle have been released on regular bail by order of Sessions Court dated 9 December 2024. It is in such circumstances, custodial interrogation can not be warranted and thus the Anticipatory Bail Application deserves to be allowed.

5. Learned APP Mr. Phule would strongly oppose such Application. He would submit that the fundamental issue to be considered in this case is that at the time of interception of the offending vehicle at about 12.58 hours as indicated in the FIR, there was no valid/legal permit which was produced. It is clearly indicated that such permit, if at all, was presented only much subsequently at

1.04 hours. This is an purely after thought. According to him, in the given facts and circumstances, such permit is not genuine and appears to be doctored/manufactured. Learned APP would not deny that the offending vehicles have been seized and there is no recovery that remains to be done. He would strongly object to the permit placed on record by the Applicant. In such facts and circumstances, according to him, as illegal sand is transported, which is the subject matter of the present proceedings, the custodial interrogation of the Applicant is necessary and expedient. He would further submit that the present Applicant is the owner of the Hyva Tipper and one Gopal Vindhe is the owner of the Scorpio car respectively, both of whom were present at the time of the incident. Accordingly, the Anticipatory Bail Application deserves to be rejected.

FINDINGS :

6. Heard learned Advocates for the parties and with their assistance perused the record. It prima facie appears on a bare perusal of the FIR that it does not record any specific role attributed to this Applicant. The allegation for using arrogant/unparliamentary language against the Government servant is not attributed to this Applicant. It is also submitted by learned APP that the offending

vehicles on the spot have been seized along with the 5 brass of sand and that there is no recovery left to be done. From a bare perusal of Section 48(8)(1) of MLRC, it prima facie appears that the mandate therein is not followed, which requires presence of a Revenue Officer at the time of seizure. At this stage, the submission of the learned APP that the permit produced by the Applicant is doctored and not genuine, is a matter of appreciation of evidence, to be considered during trial. It is pointed out to the Court that pursuant to the order dated 27 December 2024, though the Applicant was ready and willing to join the investigation, he was never asked to do so by the concerned Police Station. This fact is not controverted. Thus, it would go to show that no custodial interrogation of the present Applicant is required. No criminal antecedents of the Applicant are placed on record/pointed out to the Court. In such facts and circumstances, the Applicant has made out a prima facie case for grant of anticipatory bail. The following order would serve the ends of justice :-

ORDER

- (i) In the event of arrest of the applicant in connection with C.R. No. 0272/2024, registered with Bori Police Station, Dist. Parbhani, for the offences punishable under Sections 132, 303(2), 318(4), 3(5) of BNS and under Sections 48(7) and 48(8) of MLRC, the

applicant is directed to be released on bail on furnishing PR bond in the sum of Rs. 20,000 (Rupees Twenty Thousand Only) with one solvent surety in the like amount.

(ii) The applicant shall attend the concerned Police Station on every Monday at 11.30 am. He is further directed to co-operate the investigation.

(iii) The applicant shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately informed to the concerned police station.

(iv) The applicant shall not leave the jurisdiction of the Court without prior permission of the Court, until further orders.

(v) He shall not contact and/or influence the witness/es and/or tamper with the evidence in any manner whatsoever.

7. The Application stands allowed in the above terms and is accordingly disposed.

(ADVAIT M. SETHNA)
Judge

dyb