

Order below Exh.1 in Cri.Bail Application No.30/2020
[CNR No.MHPA040001242020]Rupesh Vs. State.

(1) Applicants who are original owners of truck No.MH-27-X-2751 and MH-27-X-1844, which were seized by Tahsildar alongwith stolen sand, have requested for anticipatory bail in Crime No.145/2019, registered with Sengaon Police Station for the offences under Section 379 read with Section 34 of Indian Penal Code.

(2) The allegations against the applicants are that on 19.08.2018 trucks of the applicants were seized alongwith stolen sand and they were detained at Tahsil Office Sengaon. Thereafter, the applicant did not deposit penalty and royalty amount inspite of the order issued by Tahsildar, which was challenged before the S.D.O. but appeal was dismissed. As per recitals of the FIR, the trucks were remained at Tahsil Office in possession of Tahsildar. On 09.07.2019, both the trucks alongwith one another truck were found to be stolen away from the custody of Tahsildar. The applicants being owners of the truck, suspicion is shown upon them that they might have committed theft of the trucks.

(3) The applicants have requested for anticipatory bail claiming that the FIR is filed only on suspicion. They have not committed any offence. There is CCTV camera at Tahsil office, which would show that the applicants have not visited the Tahsil Office nor they are involved in the incident. Thus, the applicants requested for anticipatory bail.

(4) The application is opposed by investigating officer and APP on the ground that offences are serious. The applicants have committed

theft of sand and also of the the trucks. They are absconded. Unless the applicants are arrested. There is no possibility of seizure of the trucks. If the applicants are released on anticipatory bail they may pressurize the witnesses.

(5) The applicants and their advocate remained absent although matter adjourned from time to time for hearing. Heard Learned APP N.S.Mutkule. Perused the police papers.

(6) As per recitals in the FIR and documents made available by the Learned APP , it appears that on 19.08.2018, vehicle No.MH-27-X-2751 and MH-27-X-1844 owned by the applicants were seized by Revenue Officers loaded with sand, which was being transported without payment of royalty to the Government. It also appears that seizure panchnamas of both the vehicles were prepared on 19.08.2018 on the same day the statements of the drivers of the vehicles were recorded in printed form. On the same seizure panchnama, third part show that both the vehicles were handed over in possession of respective drivers after effecting their seizure. Thus,the documents shows that after carrying the seizure of the vehicles, they were handed over in possession of the drivers. Inspite of such suprtunama about handing over possession of both the vehicles to the drivers, the prosecution is claiming that both the vehicles were in possession of the revenue authority and same are stolen away on the night between 08.07.2019 and 09.07.2019 by their owner applicants. The applicants are suspected to have stolen away their vehicles from the custody of the Tahsildar.

(7) In fact the suprutnama shows that after seizure of both the

vehicles, they were handed over in custody of the driver of applicants on 19.08.2018. Therefore, when legal possession of both the vehicles was not with the Tahsildar, it is difficult to believe that the applicants who were owners of the vehicles stolen away those trucks from the possession of the Tahsildar. Moreover, in this case, none of the witnesses have seen the applicants, while committing the theft of the vehicles from Tahsil Officer. The applicants are suspected to have stolen away both the vehicles only on the ground that they are the owners of the trucks. No doubt that prima facie material on record point out that the applicant had committed theft of the sand and did not pay the penalty imposed by the Revenue Authority. Tahsildar is authorized to detain the vehicles until payment of penalty is paid. But in this case, suprutnama in the file of APP show both the trucks were handed over in possession of their drivers. Investigating Officer and Naib-Tahsildar were present but they were unable to explain those suprutnama. Therefore, in my view, it would be just and proper to grant anticipatory bail to the applicants as follows.

Order

- 1- Criminal Bail Application No. 30/2020 is allowed.
- 2- Applicant No.1 Rupesh Subhashrao Khanderao and applicant No.2 Imranshah Taqdeershah Askhan in the event of their arrest incrimine No. 145/2019 registered with Sengaon Police Station for the offences under Section 379 read with Section 34 of Indian Penal Code be released on bail on execution of PR bond of Rs. 25,000/- each with one or more sureties.
- 3- The applicants are directed to remain present before the incharge of P.S.Sengaon on 04.03.2020 and 05.03.2020 between 11:00 a.m. to 2:00 p.m. and shall co-operate to the investigating officer.

4- Inform accordingly to the incharge of P.S.Sengaon.

Date:28.02.2020.

(N.B.Shinde)
Additional Sessions Judge
(Fast Track)Hingoli.