

MHBI060020842025



R.C.C. No. 331/2025

State of Maharashtra
V/s.
Altaf Sayyad & Others**ORDER BELOW EXH. 06**

This application is filed by accused no. 1 & 2 for discharge from the offences punishable u/s 303(2) read with 3(5) of Bharatiya Nyaya Sanhita, 2023.

2. Perused the application and say filed by Ld. APP. Heard Ld. Advocate for accused at length.

3. It is the contention of the applicants that they have been falsely implicated in the present crime. According to them, the investigation is defective, there are no independent witnesses, no scientific evidence is collected and there is no material to show that the applicants had committed theft of sand. It is further contended that accused No.2 has been implicated merely because he is the owner of the vehicle. Therefore, it is prayed that both applicants be discharged.

4. Per contra, Learned APP opposed the application and submitted that the charge-sheet material clearly discloses prima-facie involvement of the applicants. It is submitted that during investigation the vehicle transporting illegally excavated sand was intercepted, sand was seized, statements of witnesses were recorded and sufficient material has been collected showing involvement of the applicants.

Therefore, the application deserves rejection.

5. I have carefully considered the rival submissions and perused the charge-sheet papers. The FIR and charge-sheet material reveal that acting upon credible information, the police intercepted a tipper vehicle allegedly transporting illegally excavated sand. During investigation, statements of witnesses were recorded, seizure panchanama was drawn and the vehicle as well as the sand were seized. The investigation papers prima-facie indicate involvement of accused No.1 as driver of the vehicle and accused No.2 as owner thereof. At the stage of discharge, the Court is not expected to conduct a meticulous appreciation of evidence as if holding a mini trial. The Court is only required to ascertain whether there exists sufficient ground for proceeding against the accused. If the material on record raises grave suspicion regarding involvement of the accused, discharge cannot be granted. The contentions raised by the applicants regarding absence of independent witnesses, insufficiency of evidence, false implication and alleged defects in investigation are matters which require appreciation of evidence and can appropriately be considered only during trial. Such disputed questions cannot be conclusively determined at the stage of discharge.

6. Learned Advocate for the applicants relied upon the judgment of the Hon'ble Bombay High Court, Nagpur Bench in **Moreshwar s/o Purushottam Gejik Vs. State of Maharashtra, Criminal Revision Application No.164 of 2022**. With due respect, the said judgment was rendered after conclusion of trial and appreciation of evidence on record. The present case is at the stage of consideration of

discharge. The scope of inquiry at the stage of discharge is entirely different from that at the stage of final adjudication after trial. Therefore, the ratio laid down in the said judgment does not assist the applicants in the facts of the present case. Upon overall consideration of the charge-sheet material, this Court is satisfied that there exists sufficient ground for proceeding against accused No.1 and 2 for the offences alleged. The material on record raises a strong prima-facie case requiring full-fledged trial. Hence, no case for discharge is made out. Hence, I pass following order.

ORDER

The application at Exh. 06 is hereby rejected.

Date: 24/06/2026
Place: Ambajogai

Sd/-
(A.M.Dhawale)
Judicial Magistrate First Class,
Ambajogai

:: <u>Certificate of Stenographer</u> ::		
“I affirm that the contents of this PDF file are word to word as per original Order.”		
Dictated On :	24/06/2026.	(Akash Kabne) Stenographer Grade – 3 Jt. C.J.J.D. & J.M.F.C., Ambajogai.
Transcribed On :	24/06/2026.	
Checked & Signed On :	24/06/2026.	
Date : Place : Ambajogai.	24/06/2026.	