

CNR No. MHNS010003702022

Order below Exh.1 in Cri. Bail Application No.156/2022.
(Pralhad Piraji Umbare and others Vs. State)

The present application is moved by the applicants-accused 1) Pralhad Piraji Umbare, 2) Rameshwar Piraji Umbare, 3) Santosh Piraji Umbare, under section 438 of Cr.P.C. for anticipatory bail, in connection with CR No.24/2022 registered with Wadivarhe Police Station, Dist. Nashik for the offence U/s.379,403,408, 148,420,506 r.w.s. 34 of the Indian Penal Code.

2. The I.O. appeared and filed his report and opposed the bail application stating that he has to go in detail in respect of the said transaction between the parties allegedly took place within a long span of two and half years. He has to collect the data and to inquire with the accused regarding the theft of the material particularly the modus operandi of the accused persons while committing the said offence.

3. The learned counsel Shri. Kasliwal submitted that accused have been falsely implicated in present crime. Even after taking the FIR as it is, it discloses that the accused have allegedly committed theft of the material during the span of two and half years continuously which is un-digestable as if such type of theft had been occurred continuously for two and half years it is hardly would go unnoticed. Therefore, he submitted that the allegations made against the accused do not required custodial interrogation. This Court has already granted ad-interim anticipatory bail and during this period accused have fully co-operated to the I.O. and placed entire record and documents pertaining to the transactions held between the first informant and these accused persons. There

is regular business transaction with the first informant and the accused are respectable persons of the society and carrying on their business routinely with all documentary bills and vouchers which are available for scrutiny by the authority concern including the revenue and the police. The applicants-accused are ready to visit the police station with record and co-operate with the investigation and therefore, he submitted to grant anticipatory bail to the accused.

4. The First informant has also marked his presence through Adv. Mrunal Bhatiya and submitted his written submission at Exh.16, wherein it is stipulated that the accused had committed theft since 2018 with the help of 7 trucks. The details of which is given in para No.6. The accused used the western side road for committing theft of the artificial sand and crush stones. The said fact came to know the first informant, when he had obstructed the truck of the accused on 18.11.2021, which was loaded with artificial sand without any documents and was proceeding from western side of the company and when the driver of the accused could not give satisfactory answer, therefore, he came to know about the said theft. When he checked the CCTV footage of his company, he came to know that since 2018 till 18.11.2021 the accused were committing theft of artificial sand regularly worth of Rs.2,50,00,000/-. Hence, prayed to reject the anticipatory bail application.

5. The learned APP opposed the bail application and submitted that it is not only the accused, but employees working in the company of the first informant are also suspected hand in hand with the accused and therefore, unless the custodial interrogation

of accused are granted the entire modus operandi would not be revealed. Therefore, he submitted to reject the application.

6. Thus, admittedly, as per the prosecution accused have allegedly committed theft of artificial sand on routine basis worth Rs.2,50,00,000/-. On 18.11.2021 the said fact came to the knowledge of the first informant and thereafter first informant made allegation in the FIR that the accused have committed theft of artificial sand regularly from his company and thus constructed a building, purchased gold and thus, en-reached themselves by gaining wrongfully and causing wrongful loss to the first informant. In the other words, it appears that there is long standing business relationship between the parties and even if the allegations are to be accepted as it is, the stand taken by the first informant that he came to know about the theft after two and half years cannot be considered and create some doubt in the mind as theft on a large scale that too routinely could not be said to be ignored either by first informant or by person responsible in his company. Such a theft on large scale could not be said to be escaped from the watch and scrutiny of the office bearers of the first informant. Therefore, considering the fact that the accused are businessman in this field and all of sudden if they apprehend arrest on the basis of allegations made regarding the transaction which had been occurred for nearly about two and half years, then it would be difficult for any prudent person who is businessman to transact in the market and therefore, some sort of vigilance on the part of the first informant was expected who was dealing in the same field. Therefore, I am of the opinion that the applicants-accused are entitled for anticipatory bail. Hence, following order is

passed.

ORDER

- 1) Anticipatory bail application No.156/2022 is hereby allowed.
- 2) Interim anticipatory bail granted by this court to applicant-accused No.1) Pralhad Piraji Umbare, No.2) Rameshwar Piraji Umbare, No.3) Santosh Piraji Umbare by order dated 2.2.2022 is hereby made absolute on same terms and conditions.
- 3) Applicants-accused shall co-operate with the I.O. and produce the documents which are called by him.
- 4) Applicants-accused shall attend the police station as and when called by the I.O.
- 5) Inform to concern police station accordingly.

Date- 22.03.2022

(M.A. Shinde)
Additional Sessions Judge-8,
Nashik.