

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.7018 OF 2015

1. Gyanba s/o Eknath Mantre,
2. Shivdas s/o Baswantrao Landge,
3. Sow. Surekha w/o Suryakant Kadam ..APPLICANTS

VERSUS

The State of Maharashtra & anr. ..RESPONDENTS

Mr Mahesh P. Kale, Advocate for applicants;
Mr U.S. Mote, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 15th February, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicants are seeking pre-arrest bail, in connection with C.R. No.3036 of 2015, registered with police station, Palam, District Parbhani, for offences punishable under sections 3 and 7 of the Essential Commodities Act.

2. Pursuant to the order passed by this Court on 19th January, 2016, the Collector has filed an affidavit, reporting that upon perusal of the original record, it is noticed that though the applicants herein lifted the quota of the scheduled commodities for the month of September, 2015, the same was not distributed to the card holders. The said affidavit is based

(2)

on the record of the office of District Supply Officer/Tahsildar. It is pursuant to the order of the District Supply Officer/Sub-Divisional Officer the Tahsildar has conducted an inquiry and it is brought on record that the applicants have acknowledged by putting their signature on relevant register as regards lifting of quota of the scheduled commodities for the month of September, 2015. In this background offence came to be registered against the applicants.

3. It is alleged by the prosecution that the quota of the scheduled commodities as was lifted by the applicants was not distributed to the card holders.

4. The Naib Tahsildar filed a complaint against the present applicants alleging that, though the quota of the scheduled commodities for the month of September, 2015 was lifted, the same was not distributed to the card holders.

5. Learned Counsel appearing on behalf of the applicants, while trying to make out a case for grant of pre-arrest bail, would urge that though the signatures of the applicants are reflected on the acknowledgments, it is required to be noted that the Godown Keeper of the godown from which the scheduled commodities were released in favour of the applicants, has obtained their signatures but in fact, has not released the quota and must have dealt with the commodity at his own level. Attention of this Court is invited to the fact that the said Godown Keeper was suspended by the

(3)

Collector, by directing an inquiry against him after inspection of the godown under his control.

6. So far as the case of the present applicants is concerned, the prosecution has brought on record that the quota was lifted by the applicants and acknowledgment to that effect furnished by the applicants is also produced before this Court for its perusal. There are complaints by the card holders of not receiving the goods against the quota of September, 2015. The enquiry by the Tahsildar depicts the involvement of the applicants.

7. In the above background, at this stage, in my opinion, it will be improper to conclude that the quota of the scheduled commodities, for the month of September, 2015 was not lifted by the applicants, which was not offered for distribution to the card holders.

8. Having regard to the *prima facie* involvement of the applicants in the crime in question and in the above referred background, in my opinion, they are not entitled for protection.

9. In that view of the matter, the application fails and stands rejected.

(N.W. SAMBRE, J.)

amj