

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.772 OF 2020

Taswar Beg s/o Yusuf Beg Mirza

... Applicant

Versus

1. The State of Maharashtra
2. The Superintendent of Police

... Respondents

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Mr. R.S. Deshmukh, Senior Counsel i/b Mr. D.R. Deshmukh, Advocate for the applicant.
Mr. V. S. Badakh, APP for respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 14-12-2020

ORDER :

. Present application has been filed by original accused for getting anticipatory bail under Section 438 of the Code of Criminal Procedure, as he is apprehending his arrest in connection with Crime No.212 of 2020 registered with Sillod (Rural) Police Station, District Aurangabad for the offences punishable under Sections 368, 420 read with Section 34 of Indian Penal Code, Sections 3 and 7 of the Essential Commodities Act, 1955, Sections 3(1) and 8 of the Seeds Act, 1968 and under Rule 3 of the Seeds (Control) Rules, 1983, Sections 6(a) and 7(b) of the Seeds Act, 1955 and Sections 9 and 13 of the Pesticides Act, 1968 and under Rule 19 of the Pesticides Rules, 1971.

2. Heard learned Senior Counsel R. S. Deshmukh for applicant and learned APP Mr. V. S. Badakh for respondent – State. In order to cut short it can be said that both of them have made submissions in support of their respective contentions.

3. The first information report has been lodged by Sanjay Chandrakantrao Vyas, who is the Agricultural Officer. He also works as Inspector under the Seeds Act. He has been authorized to lodge report. It is stated that there is a complaint regarding seeds loss by one farmer and, therefore, Redressal committee were constituted at Taluka level. They were authorized to inspect the land in connection with the said complaint and give report. It was also stated that the said farmer had purchased seeds manufactured by Kisan Agri Technology India Pvt. Ltd. through agriculture service center. The committee had taken the samples of seeds and it was found that they are not of standard quality. They had no germination capacity. It had resulted in loss to the said farmer. The person whose land was inspected, had purchased the seeds on 30-06-2020 and 10-06-2020. The *Suo Moto* Public Interest Litigation was decided by this Court on 26-06-2020 and certain directions were given including the direction to lodge offence and, therefore, the informant has lodged the offence. The present applicant is the member of the said company. It has been contended by the informant that by giving such faulty seeds, the company has cheated the farmers.

4. Taking into consideration the contents of the FIR, it is doubtful as to whether Section 420 of Indian Penal Code can be attracted, as the FIR is lodged by the Government Servant and not by the said farmer directly. Even if, for the sake of argument, we accept that the criminal law can be set in motion, yet, as regards the said contention that though the said farmer had purchased the seeds manufactured by the company of the applicant and those seeds have not been germinated; the physical custody of the applicant is not at all required for the purpose of investigation. The learned Advocate appearing for the applicant has raised questions in respect of authority of the informant to extract sample and the procedure that has been adopted. We need not go into those details, at this stage, as we are considering the present application for the purpose of bail only.

5. It is to be noted that though the Division Bench of this Court had given directions under the *Suo Moto* Public Interest Litigation to lodge offence against the manufacturers, yet, the said order has been stayed by the Hon'ble Supreme Court in Special Leave Petition (Criminal) Diary No.13972 of 2020 by order dated 20-07-2020. Therefore, in spite of stay granted by the Hon'ble Apex Court to the order passed by this Court whether the informant could have gone ahead with lodging the report on 08-07-2020 itself is a question. These cases were covered under the order passed by this Court in *Suo Moto* Public Interest Litigation No.9 of 2020, which is stayed by the Hon'ble Apex Court. Therefore, the application filed by the present applicant deserves to be allowed. Further,

this Court by order dated 20-10-2020 had granted ad-interim protection to the present applicant, that deserves to be confirmed and made absolute. Hence, the following order :-

ORDER

- I) The application stands allowed.
- II) The order passed by learned Additional Sessions Judge-10, Aurangabad in Bail Application No.1002 of 2020 dated 13-08-2020 is hereby set aside. The said application stands allowed.
- III) The ad-interim protection, granted by this Court earlier to applicant vide order dated 20-10-2020, is hereby confirmed and made absolute. In other words, in the event of arrest of the applicant – Taswar Beg s/o Yusuf Beg Mirza in connection with Crime No.212 of 2020, registered with Sillod (Rural) Police Station, District Aurangabad for the offences punishable under Sections 368, 420 read with Section 34 of Indian Penal Code, Sections 3 and 7 of the Essential Commodities Act, 1955, Sections 3(1) and 8 of the Seeds Act, 1968 and under Rule 3 of the Seeds (Control) Rules, 1983, Sections 6(a) and 7(b) of the Seeds Act, 1955 and Sections 9 and 13 of the Pesticides Act, 1968 and under Rule 19 of the Pesticides Rules, 1971.
- IV) The applicant shall not tamper with the evidence of the prosecution in any manner and shall cooperate with the investigation.
- V) The applicant shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]