

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.795 OF 2020

Radheshyam s/o Mangilal Patidar

... Applicant

Versus

The State of Maharashtra

... Respondent

.....
Mr. G. P. Shinde, Advocate for the applicant.
Mr. S. Y. Mahajan, APP for respondent – State.

.....
CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 16-12-2020

ORDER :

. Present application has been filed by the 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.219 of 2020 registered with Basmat Police Station, District Hingoli for the offences punishable under Sections 420 of Indian Penal Code, Sections 6(b), 7(b) of the Seeds Act, 1966 and Rule 23(A)(2) of the Seeds Rule, 1968.

2. Heard learned Advocate Mr. G.P. Shinde for applicant and learned APP Mr. S.Y. Mahajan 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 Govind Baburao Dahiwade, 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 were huge complaints regarding seeds loss by various farmers and, therefore, Redressal committees were constituted at Taluka level. They were authorized to inspect the land in connection with the complaints and give report. It was also stated that many farmers had purchased the seeds manufactured by M/s. ASN Agri Genetics Pvt. Ltd. through agriculture service centers. 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 farmers who take Soyabin crop. A *Suo Moto* Public Interest Litigation was entertained by this Court 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 farmers 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 farmers 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 17-07-2020 itself is a question. When the purchase of the seeds by those farmers were covered under the *Suo Moto* Public Interest Litigation and order of this Court has been stayed by the Hon'ble Apex Court, then the benefit of this fact should go to the applicant and, therefore, the application filed by the present applicant deserves to be allowed. Hence, the following order :-

ORDER

- I) The application stands allowed.
- II) The order passed by learned Additional Sessions Judge, Basmathnagar in Criminal Bail Application No.165 of 2020 dated

10-08-2020 is hereby set aside. The said application stands allowed.

III) In the event of arrest of the applicant – Radheshyam s/o Mangilal Patidar in connection with Crime No.219 of 2020, registered with Basmat Police Station, District Hingoli for the offences punishable under Sections 420 of Indian Penal Code, 6(b), 7(b) of the Seeds Act, 1966 and Rule 23(A)(2) of the Seeds Rule, 1968, he be released on P.R. of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.

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.]

scm