

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.853 OF 2020

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| 1. Chetan s/o Baburao Zade | |
| 2. Gokul s/o Brafsing Rathod | ... Applicants |

Versus

The State of Maharashtra	... Respondent
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Mr. T. M. Venjane, Advocate for the applicants.
Mr. A. M. Phule, APP for respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 10-12-2020

ORDER :

1. Present application has been filed by original accused persons for getting anticipatory bail under Section 438 of the Code of Criminal Procedure, as they are apprehending their arrest in connection with Crime No.155 of 2020 registered with Kasarshirshi Police Station, Tq. Nilanga, Dist. Latur for the offences punishable under Sections 420 of Indian Penal Code, 6(b), 7(b) of the Seeds Act and under Rule 23-A(1), 23-A(2) of the Seed Rules, 1968.

2. Heard learned Advocate Mr. T. M. Venjane for applicants and learned APP Mr. A. M. Phule 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 Vishal Gowardhan Dhakne, who is the Development Officer (Agriculture). He is serving with Zilla Parishad, Latur. 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 lost 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. Rising Sun Seeds 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* petition was entertained by this Court and certain directions were given including the direction to lodge offence and, therefore, he has lodged the offence. The present applicants are the members 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 applicants and those seeds have not been germinated; the physical custody of the applicants is not at all required for the purpose of investigation. The learned Advocate appearing for the applicants 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* petition 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 to the order passed by this Court by the Hon'ble Apex Court whether the informant could have gone ahead with lodging the report on 15-07-2020 itself is a question, and therefore, the application filed by the present applicants deserves to be allowed. Further, this Court by order dated 22-10-2020 had granted ad-interim protection to the present applicants, 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, Nilanga in Criminal Miscellaneous Application (Anticipatory Bail) No.51 of 2020 dated 16-09-2020 is hereby set aside. The said application stands allowed.

III) The ad-interim protection, granted by this Court earlier to applicant vide order dated 22-10-2020, is hereby confirmed and made absolute. In other words, in the event of arrest of the applicants viz., (i) Chetan s/o Baburao Zade and (ii) Gokul s/o Brafsing Rathod in connection with Crime No.155 of 2020, registered with Kasarshirshi Police Station, Tq. Nilanga, Dist. Latur for the offences punishable under Sections 420 of Indian Penal Code, 6(b), 7(b) of the Seeds Act and under Rule 23-A(1), 23-A(2) of the Seed Rules, 1968, they be released on P. R. Bond of Rs.30,000/- (Rupees Thirty Thousand only) with two sureties of Rs.15,000/- (Rupees Fifteen Thousand only) 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 remain present before the Investigating Officer on every Sunday between 10.00 a.m. to 5.00 p.m. till filing of charge-sheet.

[SMT. VIBHA KANKANWADI, J.]

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