

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1129 OF 2020

CHANDRAKANT S/O VASANT WANI
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. G. P. Shinde, Advocate for applicant.
Mr. A. M. Phule, APP for respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 16-12-2020

ORDER :

1. Present application has been filed by the original accused No.1 for getting anticipatory bail under Section 438 of the Code of Criminal Procedure, as he is apprehending his arrest in connection with Crime No.204 of 2020 registered with Phulambri Police Station, District Aurangabad for the offences punishable under Section 420 read with Section 34 of Indian Penal Code, Section 6(a), 7(b) of the Seeds Act, 1966, Section 3, and 7 of Essential Commodities Act, 1955 read with Rule 23(A)(2), 38 of Seeds Rules, 1968, under Order 3, 13(1), (A), 13(4), 18(1), 18(2), (b) of Seeds Control Order, 1983.

2. Heard learned Advocate Mr. G.P. Shinde for applicant 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 Shaikh Razzak Shaikh Wajir, 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 was 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 the seeds manufactured by Om Divya Bioscience 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 18-06-2020. 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 farmer.

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 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 10-07-2020 itself is a question. When the purchase of the seeds by the said farmer was 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, Aurangabad in Bail Application No.1407 of 2020 dated 13-10-2020 is hereby set aside. The said application stands allowed.
- III) In the event of arrest of the applicant in connection with Crime No.204 of 2020, registered with Phulambri Police Station, District Aurangabad for the offences punishable under Section 420 read with Section 34 of Indian Penal Code, Section 6(a), 7(b) of the Seeds Act, 1966, Section 3, and 7 of Essential Commodities Act, 1955 read with Rule 23(A) (2), 38 of Seeds Rules, 1968, under Order 3, 13(1), (A), 13(4), 18(1), 18(2), (b) of Seeds Control Order, 1983, he be released on P.R. of Rs.30,000/- with two sureties of Rs.15,000/- 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