

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO 532 OF 2021

Sandip s/o. Machindra Baviskar
Age 36 years, Occ. Service at Green Gold Seeds
R/o. Hated (Kh.), Post Hated, Chopada, Jalgaon.

... APPLICANT

The State of Maharashtra.

... RESPONDENT.

Mr. Ganesh Shinde, Advocate for applicant.
Mr. S.B. Narwade, APP for respondent.

CORAM : V.G. BISHT, J.

ORDER RESERVED ON : 30th August.2021.
ORDER PRONOUNCED ON : 7th September, 2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 0153 of 2020, registered with Police Station, Virgaon, Dist. Aurangabad for the offences punishable under Sections 420 of IPC and under Sections 6(b) 7(b) of Seeds Act, 1966 r/w. Rule 38 of Seeds Rules, 1968 and Clauses 3,13(A), 18(1), 6, 13(3) and 13(13) of Seed Control Order, 1983.

2] The gist of the complaint is that, the applicant, who is responsible officer of Green Gold Seeds, Aurangabad had manufactured seeds which did not conform to the average percentage of germination of 70%. The analysis showed, the seeds were only upto 15%, 31% and 23%, collected from the agriculturist, namely, Shri Sunil Borde, Prakash Dusing and Babasaheb Dusing, respectively.

3] Mr. Shinde, learned counsel for the applicant, submits that the Seeds Inspector, in the present case, has failed to comply with the rules relating to the sampling of seeds as prescribed by Section 23A of the Seeds Rules, 1968. Similarly, Sections 15 and 16 of the Seeds Act, 1966 were also not followed and the FIR came to be lodged only on the basis of visual inspection and more particularly, in the light of the directions given by this Court dated 26th June, 2020, in the matter of *“Registrar Judicial, High Court of Bombay, Bench at Aurangabad Vs. State of Maharashtra”*. According to learned counsel, this order has been stayed by the Honourable Supreme Court in SLP (Civil) No. 13972 of 2020 *“Seed Industries Association of Maharashtra and others Vs. Registrar Judicial, High Court of Bombay, Bench at Aurangabad and others”* vide order dated 20th July, 2020. In the circumstances, the present application deserves to be allowed, argued learned counsel.

4] Mr. Narwade, learned APP, on the other hand, opposed the submissions by contending that all rules were strictly followed while collecting the samples of seeds in question. The learned APP also referred to the investigation papers wherein the prosecution witnesses have supported the prosecution case.

5] The basic allegation against the applicant is that, soybean seeds sold to agriculturist by the company of the applicant did not conform to the norms of 70% germination and rather were found to have 15%, 31% and 23% germination, respectively, in case of the said agriculturists. The important legal issue raised by the learned counsel for the applicant is that the Seed Inspector did not follow the rules and sections of the Seeds Rules and Act, respectively, while accepting the samples. Although investigation papers are there, I am not able to lay my hands, as to whether indeed, the procedure as contemplated under Section 23A of the Seeds Rules and as also Sections 15 and 16 of the Seeds Act, has been followed by the Seed Inspector.

6] Even otherwise, presuming for the sake of argument that the soybean seeds were of defective quality as germination level was 15%, 31% and 23%, respectively, in respect of said agriculturists, taking into consideration the fact that everything has been seized, the physical custody of the applicant is not at all required for the purpose of investigation.

7] Apart from above, it is also not in dispute that the FIR is registered pursuant to the directions of this court in criminal Public Interest Litigation. The order dated 26th June, 2020 in said Criminal PIL has been stayed by the Honourable Supreme Court, in SLP (Civil) No. 13972 of 2020, vide order dated 20th July, 2020, as mentioned above.

6] For the aforesaid reasons, I do not find merit in the submission of the learned APP that custodial interrogation of the applicant is necessary. On the other hand, in my considered opinion, the application deserves consideration. Hence, the following order.

: O R D E R :

[I] The application is allowed.

[II] The interim protection granted by this Court vide order dated 25th May, 2021, is hereby confirmed and made absolute.

7] The application stands disposed of in aforesaid terms.

**[V.G. BISHT]
JUDGE.**

grt/-