

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

ANTICIPATORY BAIL APPLICATION NO. 550 OF 2021

Narpatsing S/o Nanalal Purohit,
Age : 40 years, Occu. Director of
Ms Seamons Seeds Pvt. Ltd.,
R/o. 67 A, Bahubali Society, Radhanpur Road,
Mehsana, Tq. & Dist. Mehsana (Gujrath State)

...Applicant

Versus

The State of Maharashtra

...Respondent

.....
Mr. Vikrant P. Raje, Advocate for the applicant
Mrs. Vaishali S. Choudhari, APP for respondent / State
.....

CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 20th September, 2021
DATE OF PRONOUNCING THE ORDER : 22nd September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 058 of 2021, registered with Dhule Taluka Police Station, District Dhule, for the offences punishable under Sections 23(B) of Seeds Rules, 1968, Sections 6(a)(b), 7(a), 14 of the Seeds Act, Section 3 of the Seeds (Control) Order, 1983, Section 3(2)(a) and 7 of Essential Commodities Act, 1955 and Section 420 of Indian Penal Code, 1860.

2. Informant is the District Quality Control Inspector (Insecticides, Seeds and Pesticides) at Dhule. On 06.12.2020, the informant visited the shop by name, M/s. Sharad Agro Traders, owned by Sharad Onkar Patil (A-3) and inspected the said shop. On inspection, he found packets of muskmelon seeds of Khushbu variety manufactured by M/s. Seamons Seeds Pvt. Ltd. The applicant is a Director of said M/s. Seamons Seeds Pvt. Ltd.

3. The prosecution then contends that the informant demanded purchase bill of the aforesaid seeds from said Sharad Onkar Patil, who could not produce the same. He was also asked to furnish explanation within five days along with requisite license, principal certificate and purchase bill. At the same time, show-cause notice was also issued to the applicant. The applicant through his District representative, namely, Ranjit Marathe, forwarded copy of license through WhatsApp. On going through the same, the informant found that the muskmelon was not included in the said license. In the above premise, an FIR came to be lodged against the said accused and the applicant.

4. Mr. Vikrant P. Raje, learned Counsel for the applicant, submits that perusal of whole FIR would not reveal the ingredients of

Section 420 of the Indian Penal Code, against the applicant. There are no complaints from agriculturists on record. Similarly, there are no criminal antecedents. There is nothing to be recovered as against the present applicant and, therefore, his physical custody is not necessary.

5. The learned Counsel lastly submitted that all the other co-accused have been arrested and released on bail by the learned Additional Sessions Judge. The applicant is ready to cooperate with the police and in such circumstances, the application may be allowed, urged learned Counsel.

6. Mrs. Vaishali S. Choudhari, learned APP, on the other hand, vehemently opposed the submissions by contending that the applicant and other accused were found selling seeds without there being license to that effect. There is overwhelming evidence on record. Investigation is in progress and in such circumstances, the application deserves to be rejected.

7. Section 7 of the Seeds Act, 1966 provides that no person shall, himself or by any other person on his behalf, carry on the business of selling, keeping for sale, offering to sell, bartering or

otherwise supplying any seed of any notified kind or variety, unless such seed conforms to the requirement as may be prescribed under Section 7(a) to 7(d) of the Seeds Act, 1966.

8. At the same time, it must be kept in mind that the seed is one of the essential commodities and, therefore, there is an order issued by the Central Government pursuant to Section 3 of the Essential Commodities Act, 1955. The allegation against the applicant is that his Company was found selling the muskmelon seeds of Khushbu variety, which is not included in the license issued to the said Company. Apparently, in the light of the said Section and as also the seeds (control) order issued by the Central Government under Section 3 of the Essential Commodities Act, 1955, no person shall carry on the business of selling, exporting or importing seeds at any place except under and in accordance with the terms and conditions of licence granted to him.

9. The applicant has not produced anything on record *prima facie* to establish that he was manufacturing seeds of muskmelon of Khushbu variety under the license issued by the competent authority. Needless to say that *prima facie* there is breach of aforesaid provisions at the hands of the applicant. However, it is

also admitted position on record that the seeds in question came to be seized under panchanama dated 05.02.2021 by the Investigating Officer. So also certain Cash Credit Memos issued by Sharad Agro Traders are seized during the course of investigation and there are statements of witnesses from the raiding party, which I have gone through.

10. For the purposes of necessary investigation, everything has been seized by the Investigating Officer. It is also not disputed by the learned APP that other co-accused have been arrested and released on bail.

11. The above obtaining situation would show that the physical custody of the applicant is not warranted. This being so, I am inclined to allow the application. Hence, the following order.

ORDER

- i. The application is allowed.
- ii. The interim protection granted by this Court on 28th May, 2021 is confirmed and made absolute.

[V. G. BISHT]
JUDGE