

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 660 OF 2021

Rajkumar S/o. Maruti Babar

.. APPLICANT

Versus

The State of Maharashtra

...RESPONDENT.

...

Mr. G.P. Shinde, Advocate for the applicant

Mr. V.S. Badakh, APP for the respondent.

CORAM : V.G. BISHT, J.

**RESERVED ON : 3rd September, 2021.
PRONOUNCED ON : 9th September, 2021.**

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.0206 of 2021, registered with Police Station, Kotwali, Dist. Parbhani for the offences punishable under Sections 420 r/w. 34 of IPC and under Sections 6, 7, 23(A)(2) of the Seeds Act.

2] It is the case of prosecution that Eagle Seeds and Biotech Limited, Indore does the business of manufacturing seeds. For the Kharip Season 2020, they manufactured soybean seeds which were having percentage of germination upto 36% and thus, did not conform to the

average percentage of germination of 70%. Offence accordingly came to be registered.

3] Mr. Shinde, learned counsel for the applicant, submits that in all 4 samples were taken by the Seed Inspector of which 3 samples qualified. However, since the 4th sample failed, a show cause notice came to be issued to the applicant by the Quality Control Inspector, which was duly replied. According to learned counsel, on the face of it, the ingredients of offence under Section 420 of IPC are not attracted. In the Kharip season of 2020, unfortunately, due to many technical reasons, large numbers of complaints of failure of soybean seeds from every company including Government undertaking – Mahabeej, cropped up. However, it was not so with the seeds of applicant. The learned counsel then invited my attention to the show cause notice and reply given thereto and contended that not only proper explanation was given but it was also informed that seeds of the applicant company had already been certified by the certification agency, as provided under the Seeds Act, 1966 and since the seeds were certified as pure (standard) there was no question of cheating.

4] The learned counsel for applicant lastly submitted that the alleged offences are triable by Judicial Magistrate First Class and are not exclusively punishable with death or imprisonment for life. No criminal antecedents are brought on record and in such circumstances, the application deserves consideration, urged learned counsel.

5] Mr. Badakh, learned APP, on the other hand, invited my attention to the report of the Taluka Level Committee and would submit that germination of seeds was found only upto 36% which was well

below the requirement of 70%. In such circumstances, there being no merit in the application, same is liable to be rejected, argued learned APP.

6] The main allegation against the applicant is that soybean seeds sold to agriculturists did not conform to the average percentage of 70% germination and rather, were found to have only 36% germination level. It may be apt to note here that in response to the show cause notice dated 13.7.2020 (Exhibit J) issued by the Quality Control Inspector regarding sample valuation J.S. 335, lot No. Nov-19-13-2826-4102, the applicants replied on 31.7.2020 and informed/explained that seeds in question were certified seeds. It also enclosed release order by the Certification Agency. Perusal of the release order in respect of Soybean J.S. having lot No. Nov-19-13-2826-4102 which was subject matter of present FIR would show that it was duly tested and germination level was found 74% with purity of 100%. Thus, the seeds were duly certified by the Certification agency as provided under the Seeds Act. This release order is nowhere assailed by the prosecution and thus, stays.

7] Even otherwise, assuming for the sake of argument that the soybean seeds in question were of defective quality and as also taking into consideration the fact that everything has been seized, in my considered opinion, the physical custody of the applicant is not at all required for the purpose of investigation.

8] For all the aforesaid reasons, I do not find any merit in the submission of learned APP that custodial interrogation of the applicant is necessary. Rather, the same is unwarranted in the facts and circumstances of the case.

8] In view of above, the following order :-

: O R D E R :

[I] The application is allowed.

[II] The interim protection granted by this court on 1st July, 2021 with certain conditions stands confirmed and is made absolute.

9] The application stands disposed of in aforesaid terms.

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

grt/-