

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

929 ANTICIPATORY BAIL APPLICATION NO. 1177 OF 2020

HANSRAJ BALMUKUND BANSAL
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. G.P. Shinde.
APP for Respondent : Mr. P.G. Borade.

**CORAM : MANGESH S. PATIL, J.
DATED : 05.02.2021**

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure. The applicant is seeking bail in the event of his arrest in connection with Crime No. 95/2020 registered with Kingaon Police Station, District Latur, for the offences punishable under Section 420 of the Indian Penal Code and under Sections 7 (b), 6 (b), 23 (A) of the Seeds Act.

2. In substance, the Seeds Inspector in his FIR alleges that the applicant who has manufactured the seeds did not conform to the average percentage of germination of 70%. The analysis showed it is only up to 43% and the offence was registered.

3. The learned Advocate for the applicant would submit that the

applicant is being falsely implicated, in fact the standard for germination of soyabean seeds has been relaxed by the Central Government to 60% for Kharip 2020.

4. The learned Advocate would further submit that though it is a right of the applicant under Section 16 (2) of the Seeds Act to have reanalysis of the samples, in spite of his request, the Investigating Officer has not undertaken that exercise, thereby, has deprived the applicant of his valuable rights under the statute.

5. Learned Advocate would further submit that going by the nature of the allegations custodial interrogation of the applicant is not necessary. Samples have already been seized. Similarly placed accused persons in different crimes of this nature have been granted anticipatory bail by this Court and the ad interim relief granted to the applicant may be confirmed.

6. The learned APP opposes the application. He submits that the offence is serious. Poor farmers have been cheated. Although the percentage of seed germination has been relaxed from 70% to 60%, still the analysis has shown that it was even below that relaxed limit. He would submit that there are statements of the farmers. According

to them, the percentage of germination was as low as 20%. It is clearly an offence of cheating. The poor farmers have been deceived to pay the price of the seeds without having the yield.

7. I have carefully gone through the papers. True it is that even with the relaxed percentage of germination to 60%, the analysis has shown that the percentage of germination was lower than that i.e. 43%.

8. However, simultaneously one cannot ignore the fact that the statute of Seeds Act under Section 16 (2) gives right to the person concerned to have a reanalysis of the sample. It is a specific stand of the applicant about he having applied for reanalysis but in vain. Suffice for the purpose to refer to the decision in the case of **Mahyco Vegetable Seeds Limited and Others Versus State of Maharashtra and Others, 2018-ALL-MR-(Cri)-910-(S.C.)**, which clearly recognizes the right of an accused to have reanalysis of the samples under the provision of Section 16 (2) of the Seeds Act.

9. Apart from the above state of affairs, it is pertinent to note that like the present one several other FIRs have been registered pursuant to the directions of the Division Bench of this Court. Irrespective of

the fact that the decision has been stayed by the Supreme Court, this Court has granted anticipatory bail to several other accused persons in their respective crimes :

1. Chetan Baburao Zade and Another Vs. The State of Maharashtra, Anticipatory Bail Application No. 853/2020 dated 10.12.2020.

2. Radheshyam Mangilal Patidar Vs. The State of Maharashtra, Anticipatory Bail Application No. 795/2020 dated 16.12.2020.

3. Chandrakant Vasant Wani Vs. The State of Maharashtra, Anticipatory Bail Application No. 1129/2020 dated 16.12.2020.

4. Dagadu Nanabhau Ambhore Vs. The State of Maharashtra, Anticipatory Bail Application No. 1151/2020 dated 16.12.2020.

10. It would be apposite to not to take a different view.

11. The application is allowed. The ad interim relief is granted by the order dated 18.12.2020 stands confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)