

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

912 ANTICIPATORY BAIL APPLICATION NO.1217 OF 2020

RAJKUMAR MARUTI BABAR

VERSUS

THE STATE OF MAHARASHTRA

...

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

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23rd MARCH, 2021.

ORDER :

1 Present application has been filed by the applicant-accused for getting anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 as he is apprehending his arrest, in connection with Crime No.293 of 2020 registered with Partur Police Station, Dist. Jalna, for the offence punishable under Section 420 read with Section 34 of Indian Penal Code, 1860 and under Section 6(b), 7(b), 23-A(2) of the Seeds Act, 1968.

2 Heard learned Advocate Mr. G.P. Shinde for the applicant and learned APP Mr. A.M. Phule for the respondent. 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 Sakharam Nivrutti Pawal, 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 Committees were 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 seeds manufactured by Yashoda Hybrid Seeds 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 *Suo Moto* Criminal Public Interest Litigation was decided by this Court on 26.06.2020 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 farmers.

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 said 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 to 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* Criminal 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, inspite 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 05.07.2020 itself, is a question. These cases were covered under the order passed by this Court in *Suo Moto* Criminal Public Interest Litigation No.02 of 2020, which is stayed by the Hon'ble Apex Court. Therefore, the application filed by the present applicant deserves to be allowed. Hence, the following order.

ORDER

1 The application stands allowed.

2 In the event of arrest of the applicant Rajkumar Maruti Babar, in connection with Crime No.293 of 2020 registered with Partur Police Station, Dist. Jalna, for the offence punishable under Section 420 read with Section 34 of Indian Penal Code and under Section 6(b), 7(b), 23-A(2) of the Seeds Act, 1968.

3 The applicant shall not tamper with the evidence of the prosecution, in any manner and shall cooperate with the investigation.

4 The applicant shall not indulge in any criminal activity.

(Smt. Vibha Kankanwadi, J.)

agd