

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [ABA] NO. 477/2021.

Raju Baban Khandare.

-VERSUS-

State of Maharashtra, through PSO Pandharkawada, District Yavatmal.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. Hunge, Advocate for the Applicant.
Shri M.J. Khan, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : AUGUST 13, 2021.

Heard.

2. Apprehending arrest in Crime No. 688/2021 registered with Pandharkawada Police Station, District Yavatmal for offence punishable under Sections 420, 463 of the Indian Penal Code, Section 3[2][d] of the Essential Commodities Act and Clauses 7, 19 and 21 of the Fertilizer (Inorganic, Organic or Mixed) (Control) Order, the applicant seeks for pre-arrest protection.

3. The learned Counsel for the applicant has argued that, neither the stock of fertilizer was seized from the possession of the accused, nor he was having any nexus with

2

the seized material. Thus, by claiming innocence and false implication, protection has been sought.

4. The State has resisted the bail by filing reply-affidavit. It is contended that a huge stock of unauthorized fertilizer came to be seized from the house of driver of the applicant namely Santosh Madavi. It is further contended that the applicant was not having any license, still in contravention with the provision of the Fertilizer Order, the applicant was selling sub-standard fertilizer to farmers.

5. The Authorized Officer i.e. Fertilizer Control and Agricultural Officer on receipt of secret information raided the house of one Santosh Madavi on 21.06.2021. During search, huge stock of fertilizer stored in 90 bags worth Rs.1,22,775/- came to be seized. On enquiry, it was revealed that the entire stock of fertilizer belong to the applicant Raju Khandara, and therefore, the report.

6. Perused the case diary and particularly the related statements. Admittedly the applicant does not possess any licence for storage or sale of fertilizer. Various statements recorded by the police to the effect that huge stock of sub-standard fertilizer was seized from the house of Santosh

3

Madavi, who disclosed that the stock belong to his employer Raju Khandare i.e. the applicant. The Agricultural Inspector also stated that the batch number were fabricated, as well as the description of contents do not match with the original Brand. Police paper bear statements of villager who has stated that the applicant used to store the fertilizer and was selling the same to the village agriculturists.

7. The investigation is under way. The police papers prima facie disclose that the applicant is owner of the stock of unauthorized fertilizer, whilst Santosh Madavi was merely his servant. It is evident that sub-standard fertilizers were stored without any authorization. The matter needs to be investigated from various angles as to from where the sub-standard fertilizers were procured, and mode of its distribution. The alleged act is having far reaching effect on the farming sector. In view of above, this is not a fit case to exercise judicial discretion, hence, Criminal Application being devoid of merits, stands rejected.

JUDGE

Rqd.