

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 601 OF 2021

Hareshkumar Manabhai Patel
..vs..
State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P. Bhandarkar, Advocate for applicant.
Shri S.D. Sirpurkar, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 24/11/2021

Heard.

2. In anticipation of arrest in Crime No.170 of 2021 registered with Kurha Police Station, Amravati Rural for the offence punishable under Sections 420, 463, 465, 468, 471 read with Section 34 of the Indian Penal Code, Section 7 of the Seeds Act, 1966 and Rule 8, 9, 10, 11, 12, 13, 14 of the Seed Rules 1968 and Sections 8, 15(1), 15(2), 16(1) of the Environment Protection Act, 1986, the applicant is praying for pre-arrest protection.

3. The bail is claimed by stating that the applicant's name is neither mentioned in the First Information Report nor there is any material to connect him with the crime. Merely on the basis of statement of co-accused, the applicant has been falsely implicated in the case. Moreover, it is contended that the applicant is a businessman, who has attended the

Police Station and ready to co-operate with the Police.

4. The non-applicant/State resisted bail vide affidavit-in-reply dated 21.09.2021 filed by the Police Officer. The State has strongly resisted bail by contended that the applicant is the resident of Gujarat, who has sold huge quantity of prohibited cotton seeds worth Rs.14,50,397/-. The seized material does not bear the name of Manufacturer, Distributor, Validity or like details. Moreover, there was no approval from the Genetic Engineering Appraisal Committee to the Goods, which is inviolation of the Environment Protection Act. The applicant has cheated the farmers by inducing them to buy prohibited seeds in cheaper rate. During the investigation, the applicant's major role is revealed and for reaching to the root, applicant's custodial interrogation is necessary.

5. At the instance of report lodged by the District Quality Control Inspector dated 14.06.2021, the crime was registered. The informant stated that on 13.06.2021, he received information that one person is illegally selling the HTBT prohibited cotton seeds. The said information was telephonically verified from co-accused Satish Thakare who in-turn, was taken into custody. During interrogation, co-accused Satish Thakare discloses that he has brought prohibited material from another co-accused Pramod Devghare. It was also informed that Pramod Devghare has

illegally stocked huge quantity of prohibited HTBT cotton seeds. Accordingly, the residential house of Pramod Devghare was raided. During the thorough search, 89 gunny bags were found stuffed with 1891 packets of prohibited seeds worth Rs.14,50,397/-. On verification, it was found that packets does not bear name of Manufacturer, Distributor, Lot number, Validity, etc. The Police took samples from packets for analysis and therefore, the report.

6. True, the applicant's name was not mentioned in the First Information Report. However, always it depends upon the facts and circumstances of the case. Most of the time, the complicity of some co-accused may reveal during the course of investigation. As per the report, the huge quantity of prohibited seeds was seized from the residence of Pramod Devghare. During the course of investigation, the Police have arrested some more accused. Perusal of police paper indicates that the seized material was examined at the Seed Testing Laboratory, Nagpur. The Test Report confirms about the quality from which it is evident that it was totally prohibited cotton seeds in the State of Maharashtra.

7. Learned Counsel for the applicant by placing reliance on the decision of this Court dated 14.01.2021 in Criminal Application (APL) No.407 of 2020 (Rajendra s/o Bhaurao Mohod vs. State of Maharashtra and ors.) with another connected

application, would submit that the provision of Sections 420, 468, 471 read with 34 of the Indian Penal Code are not applicable. Moreover, it is submitted that in absence of those provisions, the prosecution under the Seeds Act would not stand in view of Section 155(2) of the Code of Criminal Procedure. Pertinent to note that, the seed packets does not bear the description of the Goods with necessary specification. It is factual aspect whether there was dishonest intention in circulating such prohibited seeds in the market. Having regard to the peculiar facts of this case, at this stage, it cannot be said that the provisions of the Indian Penal Code would not apply.

8. Perusal of case papers indicate that the Police have recorded statement of one of the co-accused. He has stated that he went with another co-accused to the State of Gujarat for purchasing prohibited cotton seeds. He has specifically named the applicant in whose office the order for prohibited cotton seeds, was placed. It is the very case of the prosecution that the applicant is involved in huge racket of selling large quantity of prohibited seeds in the State of Maharashtra. Undisputedly, the State of Maharashtra has prohibited HTBT cotton seeds due to its hazardous effect on farming sector. *Prima facie* it is evident that large quantity of prohibited cotton seeds have been sold in the State of Maharashtra, obviously at the cost of health hazard. The investigation is at

primary stage. *Prima facie*, applicant's nexus with the prohibited goods was revealed in preliminary investigation. In order to unearth the entire chain and to reach to the genesis, it is necessary to have custodial interrogation. Besides nature of crime, impact of crime on Society is also the material factor for consideration.

9. Having regard to the seriousness of crime and its larger impact on the farming sector, no case is made out for grant of pre-arrest protection, hence, the application stands rejected.

10. At this stage, learned Counsel for the applicant seeks to extend the interim protection to approach to the Hon'ble Supreme Court. Since, the interim protection was prevailing from 09.09.2021, it will remain in force for three weeks from today.

JUDGE

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