

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

CRIMINAL APPLICATION [ABA] NO. 710/2021.

Subhash Bajranglal Agrawal.

-VERSUS-

The State of Maharashtra through P.S. Telhara, District Akola.

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

Court's or Judge's Orders

Shri A.S. Agrawal, Advocate for the Applicant.
Shri I.J. Damle, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 22, 2021.

Heard.

2. A crime was registered vide C.R. No.354/2021 with Telhara Police Station, District Akola for the offence punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 against the applicant. Apprehending arrest in said crime, the applicant seeks pre-arrest protection.

3. Besides usual grounds it is submitted that he has purchased the seized food grains from a trader through Market Committee Achalpur. It is argued that

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there is no complaint of theft of controlled goods, so as to connect the seized goods. Moreover, it is argued that the offence under Section 3 read with Section 7 of the Essential Commodities Act would not attract.

4. The State resisted the bail by filing reply-affidavit. It is contended that, on suspicion the police had intercepted a truck from which 36 wheat sacks came to be seized. Those food grains were of ration goods which were illegally transported by the applicant. The driver of the vehicle has disclosed that the goods belong to the applicant. It is to be investigated as to from where the applicant has brought the essential commodity. Moreover, the police wants to seize sacks having government monogram, which were changed by the applicant while transporting the goods. On these grounds bail is prayed to be rejected.

5. It is the prosecution case that on 02.09.2021, on receipt of secret information, the police accosted a Tata Ace vehicle bearing registration No. MH-30-AV-1007, in which the control [ration] wheat was loaded. After taking search it was found that the vehicle was carrying 36 sacks of wheat worth

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Rs.34,200/-. The driver of the vehicle had disclosed that the seized food grains was of ration [control goods], owned by the applicant, and therefore, the report.

6. It is not in dispute that the seized material i.e. wheat is a food stuff, meaning thereby an essential commodity within the meaning of Section 2-A of the Essential Commodities Act. On preliminary investigation it was found that the applicant has procured the controlled goods from fair price shop, for sale in open market. The applicant has produced receipt to show that he has purchased those goods from one Rushab Agrawal through Market Committee, Achalpur.

7. The police have verified the genuineness of the receipt and found that the said receipt is not genuine. The investigation paper contains a letter of the Market Committee stating that those goods were not dispatched through Market Committee. In the circumstances, even on prima facie basis, the said material cannot be considered since it is a matter of investigation.

8. From the stand taken by the applicant it is

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not in dispute that the seized goods belongs to him. It is a matter of investigation to find out from which fair price shop the applicant has procured the goods. Moreover, the fair price goods were removed from the sacks having government monogram. The said material is required to be seized. Though the applicant has challenged the applicability of Section 3 of the Essential Commodities Act, however, at this juncture, it is evident that the applicant was transporting the essential commodity, without probable explanation. The matter requires thorough investigation since the controlled goods are meant for distribution amongst the poor strata of the society. The custodial interrogation is necessary to unearth the entire chain. Having regard to all these facts and especially the social impact of such nature of crime, this is not a fit case to grant pre-arrest protection. Criminal Application is therefore, rejected.

JUDGE

Rgd.