

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

931 ANTICIPATORY BAIL APPLICATION NO.369 OF 2022

1. Chintan Mansukbhai Patel
2. Mansukbhai Tulshibhai Patel
3. Manishbhai Tulshibhai Patel
4. Bhagwan Limba Patil
5. Kapil Pralhad Dahitule .. Applicants

Versus

The State of Maharashtra .. Respondent

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Advocate for Applicants : Mr. Dattulal Shankarlal Bharuka
APP for Respondent / State : Mr. V.M. Kagne

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CORAM : SARANG V. KOTWAL, J.

Date : JUNE 07, 2022

PER COURT :-

1. The applicants are seeking anticipatory bail in connection with C.R. No.72 of 2022 registered at Gangapur Police Station on 05.03.2022 under Section 420 of the Indian Penal Code, under Sections 6 and 7 of the Seeds Act, 1966 and under Section 3, 9 and 10 of the Essential Commodities Act, 1955.

2. Heard Mr. D.S. Bharuka, learned Counsel for the applicants and Mr. V.M. Kagne, learned APP for the respondent / State.

3. The applicant nos.1 to 3 are the Directors of M/s. Sagar

Biotech Private Ltd., Surat. The applicant no.4 is an employee of that Company and the applicant no.5 is the dealer of that Company in Aurangabad.

4. The FIR is lodged by the Seed Inspector on 05.03.2022. He has stated that on 10.02.2022 he had visited M/s. Sakshi Krushi Seva Kendra, Kaygaon, Tal. Gangapur, Dist. Aurangabad. There he found four packets of 50 gms each of F-1 Hybrid Pumpkin variety SB – 113 made by the said Company. It is mentioned in the FIR that the license, which was given to the Company, did not include these particular seeds. Applicant no.5 - dealer was asked to produce the purchase bill. He produced the bill dated 06.07.2021 wherein it was mentioned that 10 such packets were supplied by the said company to applicant no.5 for demo purpose, but according to the first informant, only four packets found and six packets were sold commercially. On that very day the first informant directed applicant no.5 not to sell remaining packets and invited explanation through show cause notice. The Company sent an e-mail showing cause for not taking action against the applicants, but the informant was not satisfied. On 05.03.2022 the informant did not find the seed packets supplied to the applicants and, therefore, according to him all the applicants had committed those offences in collusion with each other.

5. Learned Counsel for the applicants submitted that the

offences under the Seeds Act are non-cognizable and bailable. The police have no authority to investigate into offence without permission of the Magistrate. He further submitted that the ingredients of Section 420 are not made out and there is no violation of Seeds Order attracting provisions of Essential Commodities Act.

6. The learned APP opposed this application. He submitted that the purchase bill shows 10 packets, but initially only four packets were found. So, there is possibility that six packets were sold by the applicants to various farmers and, even subsequently those four remaining packets were not found, therefore, the offence under Section 420 is made out.

7. I have considered the submissions made by the learned Counsel appearing for the respective parties.

8. The applicants were protected by the Interim order dated 30.03.2022 passed by this Court (**Coram : Smt. Vibha Kankanwadi, J.**). In the said order, it was observed that whether under such circumstances, Section 420 of IPC is attracted, would be a question. After making those observations, interim order was passed. Even today, the investigating agency has not been able to show to whom those packets were sold and as to how any purchaser was actually cheated through sale of such packets. The learned APP could not

point out any violation of Seeds Act. There is no victim in this case, who was cheated by either of the applicants. There is nothing to show that any farmer was put to loss because of sale of those seeds. In this backdrop, custodial interrogation of the applicants would not be necessary. They can be directed to co-operate with the investigation and that will serve the purpose. Hence, the following order.

ORDER

(i) In the event of arrest of the applicants in connection with C.R. No.72 of 2022 registered at Gangapur Police Station, Tal. Gangapur, Dist. Aurangabad on 05.03.2022, the applicants are directed to be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- each, with one or two sureties each in the like amount.

(ii) The applicants shall attend the concerned Police Station as and when called by the Investigating Officer and shall co-operate with the investigation.

(iii) The Anticipatory Bail Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)