

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

908 ANTICIPATORY BAIL APPLICATION NO.940 OF 2022

1. POONAM W/O. RAM DONGARE
2. UMESH S/O. ZUMBARLAL NAHAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Shinde Ganesh P.
APP for Respondent-State : Ms. V. S. Choudhari.
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CORAM : S. G. MEHARE, J.
DATE : 22.09.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent-State.

2. Learned counsel for the applicants has vehemently argued that the Director / Controller of the Agriculture Commissionrate had issued a circular dated 29.04.2022 regulating the sale of cotton. As per this regulation, the sale of the said cotton seeds was prohibited for the retail seller till 31.05.2022 and retailers were allowed to sale cotton seeds from 01.06.2022. The complainant without authority has taken the trap by sending dummy customer to purchase the cotton seeds. The applicants sold the cotton seeds before the prescribed date i.e. 01.06.2022. The trap was successful.

However, the complainant examined various things and found that the applicants violated various Rules and Regulations of the said Act.

3. Learned counsel for the applicants has vehemently argued that as per the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009, the Controller is the sole authority to control and regulate the supply, distribution, sale and sale price. He also referred to the preamble of the said Act and vehemently argued that cotton seeds is not an essential commodities within the meaning of Essential Commodities Act, 1955. In the Seeds Control Order, 1983, Section 3 of the Essential Commodities Act, 1955 are not applicable insofar as they relates to cotton seeds. No provisions as such were available in the Environmental (Protection) Act, 1986. Therefore, to protect the exploitation of the poor farmers by the traders in cotton seeds, the said Act has been enacted. He has also vehemently argued that Section 13 of the said Act provides for the penalty for the contravention of any order issued by the controller under Section 4. It provides for the punishment with the term which may extent to three years or with fine or with both or with fine of Rs.5,000/- or with both. He has also referred

Section 15 of the said Act and vehemently argued that no Court shall take the cognizance of an offence punishable under the said Act except upon the complaint, in writing made by the controller or any Officer authorized by him for this purpose. The gist of his argument is that the prime offence against the applicants is the breach of the circular issued by the controller dated 29.04.2022. There are no elements of an offence under Section 420 of the IPC.

4. It has been alleged against the applicants that they had breached Section 7(c) of the Seeds Act, 1966 and the maximum punishment for the contravention of the said Act and Rule for the first offence, is fine which may extent to Rs.500/- and in the event of previous conviction with imprisonment which may extent to six months or with fine which may extent to Rs.1000/- or both. He has also argued that the applicants are the poor traders. They had no intention to cheat anybody. However, the trap was arranged by the complainant with malafide motive. The Rules framed under the Seeds Act have not been followed. Therefore, they may be protected.

5. Learned APP has opposed the application contending that there are antecedents to the discredit of the applicants.

The applicants have breached the circular of the Controller and caused the hurdle in eliminating the effect of *Shendari Bond Ali* on the cotton. Therefore, the applicants have committed serious offence.

6. Perused the papers and relevant provisions of law referred to by the learned counsel for the applicants. The prime offence against the applicants is the breach of the circular issued by the Controller of the Agriculture Commissionerate dated 29.04.2022. Considering the punishment provided for the breach of the provisions of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009 and the Seeds Act, the offences appears not serious. The trap was successful and nothing is to be recovered from the applicants. Whether Section 420 would apply or not is a matter of investigation. Considering the allegations levelled against the applicants and the law applicable in this case, the Court is of the view that this is a fit case for anticipatory bail. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, applicant No.1. POONAM W/O. RAM DONGARE and 2. UMESH S/O.

ZUMBARLAL NAHAR, be released on bail on furnishing P.B. and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one solvent surety in the like amount each in Crime No.165 of 2022, registered with Police Station Gangapur, District Aurangabad, for the offences punishable under Section 7(c), 19 of the Seeds Act, Section 420 of the IPC and Section 3 of the Essential Commodities Act, on the condition that they shall co-operate with the Investigating Officer.

(S. G. MEHARE, J.)

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vmk/-