



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 ANTICIPATORY BAIL APPLICATION NO. 1865 OF 2023

1. Dharmeshbhai Mohanbhai Vaishnav
2. Smt. Jayashriben Dharmeshbhai Vaishnav
3. Om Dharmeshbhai Vaishnav ...Applicants

The State of Maharashtra ...Respondent

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Advocate for Applicants : Mr. Amol S. Sawant
APP for Respondent: Mr. C.V. Bhadane
Advocate to assist the A.P.P. : Mr. M.V. Bhamre

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CORAM : SHIVKUMAR DIGE, J.
DATED : 9th AUGUST, 2024.

PER COURT :-

1. The applicants apprehend arrest in connection with crime No. 0333 of 2023 registered with Dharangaon Police Station, district Jalgaon, for the offence punishable under sections 420, 427 r/w 34 of I.P.C., 3(2)(a), 3(2)(d) of Essential Commodities Act, 1955 and under Section 8, 19(c)(ii), 28, 35(1)(a), 35(1)(b) of Fertilizer Control Order 1985.

2. It is the prosecution's case that the informant had cultivated the cotton in his field but the said cotton was not grown up properly hence, the informant lodged the complaint against the concerned authority. The concerned authority visited the field of the informant

and they came to the conclusion that the crops were not grown up properly due to use of Sardar Single Super Phosphate or spraying of weedicide. Considering the said conclusion, the offence was registered by the complainant. It is alleged that the Sardar Single Super Phosphate is produced in the company of which the applicants are Director and Manager.

3. It is the contention of the learned counsel for the applicants that the conclusion drawn by the concerned authority was without any lab report or without sending the said crop for testing in any lab. By seeing the said crop only, they came to the conclusion that it is a case of use of Single Super Phosphate which is erroneous. Learned counsel further submitted that without sending the crop for testing, only by observing no one can say that it was the effect of Single Super Phosphate for not growing the said crop properly. The applicants are the Directors and Manager of the company. Considering their position, their custodial interrogation is not required. There are several reasons for improper growth of the crops. Learned counsel further submitted that the informant has filed an application before this Court that he has no objection to allow the application. Considering this fact, the custodial interrogation of the applicants is not required and requested to allow the application.

4. It is the contention of the learned APP that the applicants are the Directors and Manager of the company which produces the Single Super Phosphate and by using the said product, the informant has suffered a loss. The crops did not grow properly. Only the informant has lodged the complaint. There may be other farmers who may have suffered loss by using the said product. The custodial interrogation of the applicants is necessary to see the stock of the said product and requested to reject the application.

5. It is the contention of learned counsel for the informant that the informant has no objection to allow the application.

6. I have heard all the learned counsel. Perused the F.I.R. and the police papers produced on record. In the F.I.R. it is alleged that when the concerned authority visited the field of the informant and by observing the crop they came to a conclusion that because of use of phosphate produced by the applicants' company, the damage to the crop may have been caused. The said crop was not sent in any lab. Moreover, the informant has no objection to allow the application. Considering the above facts, the custodial interrogation of the applicants is not required. Hence I pass the following order:-

ORDER

- (i) The application is allowed.
- (ii) The interim anticipatory bail granted to the applicants vide order dated 08.11.2023 stands confirmed on the same terms and conditions with following modifications:-
 - (a) the applicants shall attend the concerned police station as and when required by the Investigating Officer.
 - (b) The applicants are directed to check the quality of the product mentioned in the F.I.R. and if it is not sold, the applicants shall not sale the said product.

(SHIVKUMAR DIGE, J.)

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