

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2065 OF 2024

Audumbar Dnyaneshwar Disale ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Tushar N. Sonawane for Applicant.
Mr. Tanveer Khan, APP for Respondent-State.
Mr. Vikrant Phatate a/w. Mr. Mahesh Arjun for Intervenor.

CORAM : MANISH PITALE, J.
DATE : AUGUST 02, 2024

P.C. :

. Heard Mr. Sonawane, learned counsel for the applicant and Mr. Khan, learned APP for the respondent-State. Mr. Phatate, learned counsel has instructions to appear on behalf of the first informant and he submits that an intervention application can be filed.

2. In the present case, the informant approached the police stating that fungicide - Thiophanate Methyl 70% WP (Key) was purchased by him and certain other agriculturists from the village. The said fungicide was bought from the shop of the applicant and when the same was sprayed on the crop of grapes of the informant and the said agriculturists, the entire crop was destroyed, causing a huge loss to them. It is alleged that when the said fungicide was sent for testing to the laboratory, it was found to be containing traces of substances that are harmful for grapes.

3. It is specifically stated that the applicant induced the informant and other agriculturists to buy the fungicide worth Rs.8760/-, which led to loss of about Rs.80,16,000/- to the aforesaid persons, thereby committing offences under the Indian Penal Code, 1860 as well as the

Insecticide Act, 1968.

4. The learned counsel for the applicant submits that in the present case, the applicant has been running a shop of selling insecticide, fungicide and other chemicals to agriculturists. It is submitted that the applicant has a licence to run the aforesaid shop. It is further brought to the notice of this Court that the fungicide in question was bought from a company manufacturing the same in West Bengal. A copy of the relevant invoice pertaining to the same is also annexed to the application. It is submitted that in the present case, the fungicide was sold to a large number of agriculturists and only the informant and few other agriculturists have come forward to raise the aforesaid grievance. It is indicated that some of the named agriculturists are in debt of the applicant, in the sense that they have bought material from his shop but they are in arrears of payment, which could be a reason for lodging the aforesaid FIR. It is submitted that the applicant is ready to co-operate with the investigation and since the ingredients of offences are not made out, this Court may consider granting relief in the present application.

5. On the other hand, Mr. Khan, learned APP submits that since the applicant claims to be running the aforesaid shop for some time, he is expected to have knowledge of the effect that insecticides and fungicides would have on various crops. It is submitted that the statement of the informant sufficiently makes out the ingredients of the concerned offences as he along with other agriculturists were induced into spending specific amount for buying the fungicide, which eventually led to substantial loss to them.

6. The learned counsel having instructions to appear for the first informant supported the submissions made by the learned APP.

7. In the present case, on the basis of the statement of the informant,

leading to registration of the FIR, specific offences have been registered against the applicant under the provisions of the Insecticide Act as also the IPC. The offences under the Insecticide Act, specifically Section 29 thereof, show that for the first offence, the punishment is imprisonment for one year with fine and for the second offence, imprisonment for two years with fine. The punishment for offence under Section 427 of the IPC, pertaining to mischief causing damage to the amount of fifty rupees extends to imprisonment for two years. It is only the offence under Section 420 of the IPC, which carries punishment for a term extending upto seven years.

8. The ingredients of the offence under Section 29 of the Insecticide Act include sale of insecticide without proper licence or otherwise in contravention of the provisions of the Insecticide Act. Such is not even the allegation against the applicant. As regards Section 420 of the IPC, there ought to be some material to indicate that from the very inception, the applicant had intention to deceive the informant and other agriculturists to part with money in order to buy the aforesaid fungicide, which eventually allegedly caused heavy financial loss to them. The statement of the informant itself indicates that the informant and other agriculturists have been buying insecticide, fungicide and other such chemicals from the applicant. It is not as if the applicant, for the first time, entered the market and induced them into buying the aforesaid fungicide. Therefore, *prima facie*, the basic ingredient of the offence under Section 420 of the IPC does not appear to be made out. Hence, the applicant has made out a case in his favour for granting relief.

9. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0510 of 2024 dated 20.06.2024 registered with

Pandharpur Taluka Police Station, District - Solapur Rural, he shall be released on bail on furnishing PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount;

- B. The applicant shall co-operate with the investigation and he shall remain present before the investigating officer, as and when called by the investigating officer;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

10. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application stands disposed of.

(MANISH PITALE, J.)

Minal Parab