



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 686 OF 2024

Abhijit s/o Arvind Nalawade Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.S. Mardikar, Senior Counsel a/b Mr. G. D. Kale, with Mr. A.V. Band, with Mr. G. Badiger, counsel for the applicant.

Mr. S.A. Ashirgade, Addl. PP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/10/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.462/2024 registered with Police Station, Akot, District Akola for the offences punishable under Sections 9, 7, 3(2)(a), 3(2)(d) of the Essential Commodities Act and Section 318(4) of the Bharatiya Nyaya Sanhita, 2023 and 13(i)(2), 35(1)(b), 35(4), 19(a)(c)(ii) (iv)(v)(vi), 2(b) (kk) Fertilization (Control) Order 1985 and Section 3(a)4, 22(c) of the Fertilizer (Movement Control) Order, 1973, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by the Bharatsingh Jaggannath Chavan, Agriculture Officer, Panchayat Samittee, Akot, lodged the report against the present applicant and other co-accused, alleging that he is authorized to inspect the manufacturing, stock and sell, and draw samples for analysis and prohibit the manufacturing and supply of sub-standard fertilizers. He is

also authorized to issue prohibitory orders for sale and also seize, control, and file cases in Court. On 28/06/2024, while inspecting the sales centers in Darwha, he found N P K 10:26:26, D A P 18:46:00, and MOP were selling suspiciously without registering the same on the IFMS Portal, which was mandatory. It was further alleged that on 28/06/2024, he inspected M/s Ramnath Agro Centre at Chikhali, and the same was distributed by the stock of Rama Fertichem at village Wadki, Tq. Haveli, and the same was carried by M/s Satyam Roadways, Harekrishna Hotel, Bhavnagar Gujrat. He found that the said fertilizer stock is not standard but sub-standard. Accordingly, he drew the samples of the said fertilizers and sent them to the Fertilizer Control Laboratory, Chatrapati Sambhaji Nagar. On receipt of the C.A. report, it revealed that it is of sub-standard and not according to the norms. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Senior Counsel for the applicant submitted that as far as the role of the present applicant is concerned, it reveals that entire day-to-day activities were carried out by one Vikas Raghunath Nalawade, and the present applicant was not concerned with the activities of the said Rama Fertichem, as far as the sale or manufacturing is concerned. He submitted that, moreover, on 6/7/2024, his resignation was accepted by the company, and now he is no more associated with the said company.

4. He further submitted that even accepting that applicant was dealing with the said activities with Rama Fertichem Limited then also, the action taken by the informant is also against the provisions of the law. As the company has filed an application for reassessment, which is permitted in view of the provisions of the Fertilizer (Movement Control) Order 1973 and against the order of the Sub-Divisional Officer, the appeal is provided under Section 32(a), but the informant, without following this process, lodged an FIR against the present applicant. As far as the custodial interrogation is concerned, which is not required as nothing is to be seized from the present applicant. The informant has already obtained the samples and the samples were already forwarded to the analysis therefore, custodial interrogation of the present applicant immediately is not required.

5. He also invited my attention towards the communication dated 15/11/2019 issued by the Ministry of Agriculture and Farmers Welfare, Department of Agriculture, Cooperation, and Farmers Welfare, Krishi Bhavan, New Delhi, wherein it is specifically mentioned that State Government is taking an action by lodging FIR on failure of fertiliser samples on the basis of first analysis without providing an opportunity of referee analysis. Further, it has also been brought to the notice of this Ministry that the sampling procedure and in the provision of Clause 24 has not been followed, and by this communication, it was

directed to follow the circular. Thus, in view of that also, the procedure adopted by the informant is an incorrect one.

6. The learned APP strongly opposed the said application on the ground that the applicant has forwarded his resignation subsequent to the raid conducted by the informant. As far as other allegations are concerned, the C.A. Report, which is obtained from the Chatrapati Sambhaji Nagar, clearly exposes the role of the present applicant, in view of that, the application deserves to be rejected.

7. After hearing learned Senior Counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the documents filed along with the application, from which it reveals that the name of the responsible person mentioned in the statement No.1 along with the license discloses the name as Mr Vikas Raghunath Nalawade, and the name of the present applicant is shown as the applicant and designation is shown as a Director. Thus, responsibility as per the said statement is upon Mr. Vikas Raghunath Nalawade. It further reveals from the circular issued by the Central Government also that before filing of the FIR, the procedure of sampling and the provision of Clause-24 has to be followed, which appears to be not followed. Moreover, the part of the interrogation can be taken care of by imposing certain conditions on the applicant, as the entire stock is already recovered. In view of that, the applicant has made out a case for grant of

anticipatory bail. Accordingly, I proceed to pass the following order:

- a] In the event of the arrest, in connection with Crime No.462/2024 registered with Police Station, Akot, District Akola for the offences punishable under Sections 9, 7, 3(2)(a), 3(2)(d) of the Essential Commodities Act and Section 318(4) of the Bharatiya Nyaya Sanhita, 2023 and 13(i)(2), 35(1)(b), 35(4), 19(a)(c)(ii)(iv)(v)(vi), 2(b) (kk) Fertilization (Control) Order 1985 and Section 3(a)4, 22(c) of the Fertilizer (Movement Control) Order, 1973, the applicant- **Abhijit Arvind Nalawade**, shall be released on anticipatory bail, on executing P.R. Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- b] The applicant shall attend the concerned police station as and when required for the investigation purpose, and the investigating officer shall issue the notice in advance in case if his attendance is required.
- c] The applicant shall furnish his cellphone number(s) along with detailed address proof, and names of the two relatives and their address proof.

- d] The applicant shall attend the concerned police station as and when required, and on failure to do so, the protection granted to the applicant by way of anticipatory bail deserves to be cancelled.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]