



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

CRIMINAL APPLICATION (APPLN) NO. 81 OF 2023

State of Maharashtra Vs Mahendrakumar Jyotiram Patel.

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

Court's or Judge's Order

Mr. H.D. Dubey, APP for applicant/State.

Mr. V. Sambre, counsel for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/11/2024.

1. By this application, the State is seeking cancellation of anticipatory bail of the present non-applicant under Section 439(2) of the Code of Criminal Procedure.

2. The non-applicant was arraigned as an accused in connection with Crime No.346/2024 registered with Police Station, Sewagram, Wardha for the offence punishable under Sections 420, 468, 469, 471 and 120-B of the Indian Penal Code and under Sections 7 and 8 of the Seeds Rules, 1968 read with Sections 6(C), 7(C), 7(A) of the Seeds Act, 1966 read with Section 3 of the Seeds (Control) Order, 1983 read with Sections 6, 8, 9 and 15 of the Environment (Protection) Act, 1986 read with Sections 1, 2, 3 of the Essential Commodities Act, 1955 and Section 63 of the Copy Rights Act, 1957.

3. The crime is registered on the basis of the report lodged by the informant alleging that the present non-applicant, who is the manufacturer and dealing with the business of agricultural produces, seeds, and other materials

and having license to conduct his business. It was alleged that the informant, who is a Police Officer lodged a report alleging that when he effected the raid and the material was seized from the non-applicant, it was found that the accused was involved in a conspiracy for benefiting themselves by preparing bogus seeds packets. The non-applicant was found filling bogus seed packets with intention to cheat the farmers by selling it to them. On the basis of the said report, police have registered the crime against the present non-applicant.

4. After registration of the crime, the non-applicant approached the Court of Sessions for grant of anticipatory bail. Learned Sessions Court had considered the investigation papers and observed that at the time of effecting the raid, Agricultural Officer Subhash Muley had prepared the panchnama and seized packets of seeds from the spot. It is further observed that in view of the decision of this Court in ***Korra Srinivas Rao Krihnamuthy Vs. State of Maharashtra [2002 (4) Mh.L.J. 368]***, only the Seeds Inspector can launch proceedings in respect of complaints of farmers regarding failure of crops due to defective quality of seeds after detail investigation by himself, and police authorities cannot investigate such cases. Thus, considering the ratio laid down by this Court and considering the allegations against the non-applicant, the learned Sessions Court has granted bail in the event of arrest to the present non-applicant.

5. Being aggrieved and dissatisfied with the same, the present application is filed by the State for cancellation of

material on the ground that despite sufficient material against the present non-applicant, his custodial interrogation was required, the Sessions Court has released him on bail by ignoring the relevant material. It is further contended that as the present applicant has not cooperated with the investigating agency and therefore, his custodial interrogation is required. In view of that, the bail granted to the non-applicant deserves to be cancelled.

6. Heard learned APP for the State as well as the learned Counsel for the non-applicant, perused the impugned order passed by the Sessions Court, wherein the Sessions Court has considered the evidence by observing that on 13.06.2023, the complainant Subhash Muley lodged a report in Sewagram Police Station against 15 accused persons. The name of the present non-applicant is also appearing in the FIR. On perusal of the FIR, it is seen that the accused was found manufacturing the bogus seeds. The Sessions Court has further considered the decision of this Court, wherein it is held that only the Seed Inspector can launch proceedings in respect of complaints, and the police authorities cannot investigate such cases. Thus, the reasoned order is passed by the Sessions Court. As far as the allegation made in the application is concerned, that the Sessions Court has ignored the relevant material is not substantiated. The order passed by the Sessions Court sufficiently shows that the Sessions Court has considered the entire investigation papers and also considered that complainant or the informant is not a competent person to lodge the complaint, and on that count released the applicant

on bail. Moreover, the ground raised by the State is that the custodial interrogation of the present non-applicant is required, however, the entire material is already seized. Merely because the prosecution is saying that custodial interrogation is required is not sufficient. The prosecution has to substantiate his contention that custodial interrogation is required, and without custodial interrogation, the investigation cannot proceed. Thus, the said ground is absent in the present case. Considering all these aspects, the State has not made out a ground to cancel the bail. It is well settled that the overwhelming and supervening circumstances are required for the cancellation of bail. Mere contention of the State that for the investigation purpose, the custodial interrogation of the applicant is required is not sufficient.

7. Thus, in view of that, the grounds raised by the State for cancellation of bail are not sufficient to cancel the bail. In view of that, the application appears to be devoid of merits and liable to be rejected. Accordingly, I proceed to pass the following order.

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]