



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.168 OF 2025

(Shubham Ashok Benkhele Vs. The 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. S.K. Jaiswal, Advocate for the applicant.
Mrs. M.A. Barabde, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 24, 2025.

Apprehending the arrest at the hands of Police in connection with Crime No.447/2024, registered with Police Station Ner Parsopant, District Yavatmal, for the offence punishable under Sections 9, 7, 3(2)(a), 3(2)(d) of the Essential Commodities Act, 1955, Section 318(4) of the Bharatiya Nyaya Sanhita, 2023, Section 13(1)(2), 35(1)(b), 35(4), 19(a)(c)(ii),(iv),(v),(vi), 2(b)(kk) of the Fertiliser (Control) Order 1985 and Section 3(a), 4, 22(c) of the Fertilizer (Movement Control) Order, 1973, the applicant approached to this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Sanjay Shamrao Patil, Sub-Divisional Agriculture Officer, Darwha lodged the report against the present applicant and the other co-accused alleging that present applicant, who is the Director in the M/s. Rama Fertilchem Limited, Pune. The complainant is the

authorized to inspect the manufacturing, stock and sell and draw samples for analysis and prohibit the manufacturing and supply of sub-standard fertilizers. On committing the raid M/s. Ramnath Agro Centre at Chikhali it reveals that the stock of sub-standard quality was found during the raid which was obtained from the same Rama Fertichem, and therefore, the applicant is arraigned as an accused. 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. Heard learned Counsel for the applicant, who submitted that the other co-accused who is the Proprietor of the said firm is already released on bail by this Court in the event of his arrest. He invited my attention towards the observations of this Court while releasing the other co-accused on bail wherein it is observed that if any order is passed by the authority the company has further right to prefer an appeal under Section 32(a) of the Fertiliser (Control) Order 1985. Thus, the applicant is deprived from the said right also and released the then applicant. He submitted that on the same ground, the applicant claims parity and also entitled to be released on bail. He further submitted that even accepting the applicant was working as a Director, in view of the provisions of the Fertilizer (Movement Control) Order, 1973 and against the said order of the Sub-Divisional Officer, the appeal is

provided under Section 32(a), but the informant, without following this process, lodged the F.I.R. against the present applicant. As far as the custodial interrogation is concerned, which is not required as nothing is to be recovered. In view of that, he be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that during the raid conducted the sub-standard fertilizers are found in the Ramnath Agro Centre at Chikhali which is obtained from the Rama Fertichem Ltd. wherein the present applicant is the Director and he is looking after the day to day affairs of the said fertilizer company, and therefore, the application deserves to be rejected.

5. After hearing both sides and on perusal of the F.I.R. and the documents filed alongwith the application from which it reveals that initially samples were obtained from the company and the reports of the said samples show that it is as per the specification. As far as the C.A. report of the Amravati Division is concerned, which is not before the Court but considering the fact that the reassessment letter was given by the company, instead of reassessing which is the right of the applicant and his company before taking any legal action, the said right was denied to him. If any order is passed by the authority, the company has further right to prefer an appeal under

Section 32(a) of the Fertilizer (Control) Order 1985. Thus, the applicant is deprived from the said right also. As far as the custodial interrogation is concerned, which is not required as entire stock is already recovered. Considering the same, the applicant has made out a case for grant of anticipatory bail. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) In the event of arrest, the applicant - Shubham Ashok Benkhele in connection with Crime No.447/2024, registered with Police Station Ner Parsopant, District Yavatmal, for the offence punishable under Sections 9, 7, 3(2)(a), 3(2)(d) of the Essential Commodities Act, 1955, Section 318(4) of the Bharatiya Nyaya Sanhita, 2023, Section 13(1)(2), 35(1)(b), 35(4), 19(a)(c)(ii),(iv),(v),(vi), 2(b)(kk) of the Fertiliser (Control) Order 1985 and Section 3(a), 4, 22(c) of the Fertilizer (Movement Control) Order, 1973, 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.

(iii) The applicant shall attend the concerned police station once in a week i.e.

on every Monday between 10.00 AM and 1.00 PM and shall cooperate with the investigating agency.

(iv) The applicant shall attend the concerned Police Station, as directed. On failure to do so, the protection granted to the applicant by way of ad-interim protection deserves to be cancelled.

(v) The applicant shall furnish his cell-phone number alongwith detail address and address proof and names of his two relatives and their address proof, before the investigating agency.

(vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

6. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)