



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

CRIMINAL APPLICATION (ABA) NO.433/2025

Yogesh Anil Keche and anr

..VS..

**The State of Maharashtra, thr.PSO PS Maregaon, Tahsil Maregaon,
District Yavatmal**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

**Shri Bhushan Dafle, Counsel for Applicants.
Ms.T.H.Udeshi, Addl.P.P.for the State.**

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 15/07/2025

PRONOUNCED ON : 23/07/2025

1. By this application under Section 482 of the BNSS, the applicants seek anticipatory bail in connection with Crime No.182/2025 registered with the non-applicant/police station for offences punishable under Sections 318(4) and 3(5) of the Bhartiya Nyaya Sanhita and under Sections 7, 8, 9, 10, 11, 12, 13, and 14 of the Seeds Act and under Sections 7, 8, 15(1), 15(2), and 16(1) of the Environmental Protection Act and under

Sections 3 and 7 of the Essential Commodities Act, 1955.

2. Heard learned counsel Shri Bhushan Dafle for the applicants and learned Additional Public Prosecutor Ms.T.H.Udeshi for the State.

3. Learned counsel for the applicants submitted that the crime is registered on the basis of report lodged by Sandip Kerba Waghmare (the complainant), serving as Agriculture Officer of Panchayat Samiti Maregaon, district Yavatmal, on 24.5.2025 alleging that, being the Agriculture Officer, he received a secret information and on the basis of the same, he conducted a raid at agricultural field situated at village Pathari owned by one Bandu Peche and found unauthorized cotton seeds packets brought with an intention to sell to farmers in saffron colour gunny bag worth of Rs.13,515. The persons at the field fled away from the spot when they saw the complainant and other raiding party members.

At the time of the raid, the applicants were present on the spot. These seized packets were unauthorized without any label, tag of manufacturing date, packaging date, expiry date, and lot number. Even, these sealed packets were not containing name of company, who produced and marketed it, along with other mandatory and statutory details. On the basis of the said report, the police registered the crime. During investigation, it revealed that the said unauthorized cotton seeds are brought with an intent to sell the farmers and to cheat the farmers as such types of seeds are not fit to germinate it. Some of statements recorded also disclose that the applicants are using the said seeds as on non-germination so that they can claim compensation from the Government. On the basis of the said investigation, the applicants are arraigned as accused.

4. Learned counsel for the applicants further

submitted that even if the allegations against the applicants are accepted as it is, custodial interrogation of the applicants is not required as the investigation is already completed. Moreover, the Agriculture Officer is not competent authority to lodge the report. It was the Controller, who can lodge a report/compliant under Section 200 of the CrPC (**Section 223 of the BNS**).

5. Learned counsel for the applicants, in support of his contentions, placed reliance on following decisions:

1. Anticipatory Bail Application No.940/2022 (Poonam vs. The State of Maharashtra) decided by this Court at Aurangabad Bench on 22.9.2022;

2. Criminal Writ Petition No.1289/20216 (Ramnarayan vs. The State of Maharashtra and anr) decided by this Court at Aurangabad Bench on 11.12.2017;

3. Criminal Writ Petition No.245 with 253 and 300/2000 (Korra Srinivas Rao vs. State of

Mah.) decided by this Court at Principal Seat on 5.12.2000;

4. Criminal Application No.1597/2015 (Maharashtra Hybrid Seeds Company Ltd. and anr vs. The State of Mah.) decided by this Court at Aurangabad Bench on 10.8.2015;

5. Criminal Application No.5256/2013 (Maharashtra Hybrid Seeds Company Ltd and anr vs. The State of Mah.) decided by this Court at Aurangabad Bench on 15.9.2014, and

6. Union of India vs. Ashok Kumar Sharma and ors, reported in AIR 2020 SC 5274.

On the basis of these submissions, he prays for releasing the applicants on bail.

6. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the application and stressed on fact that anybody can set the criminal law in motion. She submitted that statements of witnesses recorded disclose that since inception, there was an intention to cheat and, therefore, such types of

seeds were not having any information as to label on it, tag of manufacturing date, packaging date, expiry date, lot number, and even the same were not containing name of company, who produced and marketed it.

She invited my attention to statements of witnesses and submitted that the statements of witnesses, especially statements of brothers of applicants), disclose that they have brought the said seeds for the purpose of getting compensation on its non-germination. She submitted that due to such type of attitude, the farmers, who are entitled for the compensation, are deprived of getting the compensation. As such, custodial interrogation of the applicants is required to ascertain fact from which place they have procured the same and, therefore, she submitted that the application deserves to be rejected.

7. Having heard both the sides and perused the

investigation papers, it reveals that there is no dispute as to fact that the applicants were found in possession of the said seeds. The spot of the incident was the agricultural field of Bandu Penche. The statement of his father shows that it was the applicants who brought the said seeds to sell it in the agricultural fields. The statements of brothers of the applicants disclose that they used to bring such types of seeds as they can get compensation on its non-germination.

8. Thus, the intention of the applicants for getting such types of seeds and selling the same to the farmers shows that it was since inception. Moreover, the seized packets were unauthorized without any label, tag of manufacturing date, packaging date, expiry date, lot number, and even the seized packets were not containing name of company, who produced and marketed it. Therefore, as far as custodial interrogation of the

applicants is concerned, the same is required to ascertain these facts.

9. On going through the facts in the case of **Poonam vs. The State of Maharashtra *supra***, cited by learned counsel for the applicants, decided by this Court at Aurangabad Bench, it reveals that cotton seeds prohibited were brought for sell.

Insofar as the present matter is concerned, there is contravention of the provision of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009.

The applicants brought the unauthorized cotton seeds with an intent to sell the farmers and to cheat the farmers as well as to sow it on its non-germination so that they can get the compensation from the Government. Thus, the act of the applicants appears to dupe the Government also.

10. The facts in the case of **Ramnarayan vs. The State of Maharashtra and anr** *supra* are not identical with the present case.

11. The another ground raised in the application is that, only the Controller is having power to file complaint in view of Section 4 of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009.

12. The powers of the Controller given under Section 4 of the Act, are reproduced for reference, as under:

“4. Powers of Controller. (1) Subject to the control of the State Government, the Controller, if it appears to him to be necessary or expedient for regulating maintaining or increasing the supply or distribution or sale of cotton seeds, may, by order in writing, require any person-

(i) holding stock of cottonseed to sell the whole or specified part thereof at such prices as may be fixed by the State Government, by publication of notification in the Official Gazette, from time to time and to such persons in such circumstances as may be specified in the notification;

(ii) engaged in the supply, distribution and sale of cotton seeds, to comply with directions, as may be specified in the notification, as to the variety, quality or quantity of the cotton seeds to be sold or delivered by him.

(2) The Controller shall determine the compensation payable for sale of misbranded or spurious or substandard seed, in such manner, as may be prescribed.

(3) Notwithstanding anything contained in any contract or instrument to the contrary,

every person to whom an order is issued under sub-section (1) shall comply with such order”.

13. Section 5 of the said Act deals with function of controller, which is reproduced for reference, as under:

“5. Functions of Controller.— (1) The Controller shall register the persons engaged in the trade of cotton seeds in the State and make necessary arrangements for payment of compensation to farmers.

(2) The Controller shall advice the State Government on the following matters, namely :—

(i) regulation of sale of cotton seed by way of compulsory DNA fingerprinting test or genetic purity test;

(ii) any other matter referred to him for advice by the Government.

(3) In the discharge of its functions, the Controller shall be assisted by the Seed Inspectors, Seed Analysts and such other officers as the State Government may, by order, direct”.

14. Section 13 of the said Act deals with penalties, which is reproduce for reference, as under:

“13. **Penalties.** - (1) Any person who contravenes any order issued to him by the Controller under section 4, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees five thousand or with both.

(2) If any person commits any act amounting to sale of misbranding, or of spurious or of substandard seed, then he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees five thousand or with both.

(3) Any person who sells the cotton seed at the price in excess of the maximum price fixed under section 10 shall be punishable with a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees”.

15. Section 15 of the said Act deals with cognizance of offences, which states that no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Controller or any other officer authorized by him for this purpose.

16. Undisputedly, the report is filed by the Agriculture Officer to the effect that the applicants have committed offences punishable under the provisions of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009

and under Section 420 read with Section 34 of the IPC.

Insofar as the offences under the provisions of the Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2009 are concerned, Section 15 thereof provides that cognizance can be taken on a complaint filed by the Controller.

The FIR discloses the offence under Section 420 read with Section 34 of the IPC and that since the offence punishable under Section 420 is cognizable offence, the police officer to register the complaint and to comment the investigation in the matter and, therefore, the contentions of learned counsel for the applicants are not sustainable.

17. After considering the entire material, i.e. FIR, statements of the witnesses, it reveals that knowingly the applicants have obtained the said seeds which were

without any specifications as to label on it, tag of manufacturing date, packaging date, expiry date, lot number, and even the same were not containing name of company, who produced and marketed it and an attempt was made to sell it to the villagers knowingly that quality of the said seeds was of non-germination, which shows intention since inception. Moreover, custodial interrogation of the applicants is required for ascertaining the fact as to the place from which they have procured the unauthorized seeds.

18. In this view of the matter, the application deserves to be rejected and the same is **rejected**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!