

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-37059 of 2015

Date of Order: 05.11.2015

Ankush Goyal

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr. Gautam Dutt, Advocate and
Mr. Vishal Aggarwal, Advocate for the petitioner.

Mr K.D. Sachdeva, Addl.A.G, Punjab.

RAMESHWAR SINGH MALIK, J . (Oral)

Petitioner seeks bail pending trial in FIR No.122 dated 02.09.2015 under Clauses 7,8,28(1)A, 28(1)D, 35 of the Fertilizer Control Order 1985 read with Section 7(1) of the Essential Commodities Act, 1955, Sections 13,18,21 (B) of Insecticides Act, 1968 and Sections 420,186,201 (added later on) of IPC, and Section 7, 13 (1) D of Prevention of Corruption Act, P.S City Raman, Bathinda.

Learned counsel for the petitioner while referring to the allegations qua the petitioner at Page 20 of the paper book, submits that as per the licence issued in favour of the petitioner by the Competent Authority vide Annexure P.2, he had already manufactured the alleged banned fertilizer in the month of May 2015, even as per the allegations levelled in the FIR. Said fertilizer is referred at Item No.10 of the Licence (Annexure

P.2) which is valid upto 22.04.2018 and was issued only on 23.04.2015. He also places reliance on an order dated 01.10.2002 passed by this Court in CRM-M-31863 of 2015 (P.3) and also order dated 18.09.2015 passed in CRM-M-26721 of 2015 titled Rattan Chand and Others Vs. State of Punjab (Annexure P.4) to contend that the petitioner being identically placed is entitled for the concession of bail. He prays for allowing the present petition.

On the other hand, learned State counsel submits that since the petitioner was found supplying a banned fertilizer as per the Notification issued by the State Government for the month of June 2015, he is not entitled for bail pending trial. He prays for dismissal of the present petition.

After hearing learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that keeping in view the peculiar fact situation obtaining in the present case, the petitioner is entitled to be released on bail. Even if the alleged Notification issued by the respondent-State in the month of June 2015 is applied, the same would not apply retrospectively. Petitioner has already manufactured the said item of fertilizer in the month of May 2015 even as per the allegations levelled against him in the FIR. It has also not been disputed on record that the petitioner manufactured the said fertilizer known as Micronutrient Mixture Grade II on the basis of a valid licence, which was issued in his favour on 23.4.2015 and the same is valid upto 22.4.2018 (P.2). In such a situation, it shall be the moot point before the learned trial Court whether the petitioner, as a matter of fact, has committed any offence or not.

In view of the above and without commenting anything further

on merits at this stage, lest it should prejudice the rights of either of the parties, instant petition is allowed and the petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

November 05, 2015
manoj

(RAMESHWAR SINGH MALIK)
JUDGE