

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

[1] Criminal Misc.No.M-7297 of 2016
Date of Decision: March 02, 2016

Chunni Lal GabaPetitioner
versus
Assistant Director, Directorate of Enforcement, Government of
India.Respondent

[2] Criminal Misc.No.M-7301 of 2016

Khushant GabaPetitioner
versus
Assistant Director, Directorate of Enforcement, Government of
India.Respondent

[3] Criminal Misc.No.M-7302 of 2016

Harmesh Kumar GabaPetitioner
versus
Assistant Director, Directorate of Enforcement, Government of
India.Respondent

[4] Criminal Misc.No.M-7342 of 2016

Sudesh RaniPetitioner
versus
Assistant Director, Directorate of Enforcement, Government of
India.Respondent

[5] Criminal Misc.No.M-7344 of 2016

Gurmesh Kumar GabaPetitioner
versus
Assistant Director, Directorate of Enforcement, Government of
India.Respondent

[6] Criminal Misc.No.M-7366 of 2016

Smt.RekhaPetitioner
versus
Assistant Director, Directorate of Enforcement, Government of
India.Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Vishal Deep Goyal, Advocate, for the petitioner(s).

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1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

This order shall dispose of the above-captioned petitions filed under Section 482 Cr.P.C., wherein the petitioners have sought quashing of the summons issued for their appearance in a warrant case dated 03.02.2016 which is a Complaint filed by the Directorate of Enforcement under Section 45(1) of the Prevention of Money Laundering Act, 2002. Since the petitioners are members of one family and all of them are Directors/ Partners in one or the Company/Firm run by them jointly and also the point in issue involved in these cases is similar in nature, that all the petitions are being disposed of by way of a common order.

[2] The facts are being extracted from Criminal Misc-M-No.7297 of 2016 (Chunni Lal Gaba versus Assistant Director, Directorate of Enforcement, Government of India).

[3] The Directorate of Enforcement has filed a Criminal Complaint under Section 45(1) of the Prevention of Money Laundering Act, 2002 (in short, 'the 2002 Act') alleging, inter-alia, that the petitioners have committed the offence as defined under Section 3 and which is punishable under Section 4 of the 2002 Act. Unfortunately, the petitioner(s) have not chosen to append the copy of the Criminal Complaint due to which the gravity or nature of the allegations levelled against them is not known. What it appears is that the petitioners are

Directors/Partners in the following Companies or Firms:-

1. M/s Medcare Remedies Private Limited, Upmahal, Shashtri Nagar, Village Kaloh, Tehsil Gagret, District Una (HP);
2. M/s Shiva Cold Store and Ice Factory, Village Mansoorpur, Atti Gate, Tehsil Phillaur, District Jalandhar;
3. M/s Saichem Laboratories Product Pvt. Ltd., Bharwain Road, Garget, District Una (HP);
4. M/s White Rose Pharma Chemical Limited, G.T. Road, Goraya, District Jalandhar;
5. M/s White Rose Estate and Investment Pvt. Ltd., G.T. Road, Goraya, District Jalandhar;
6. M/s Shiva Agriculture Farm, Village Mansoorpur, Atti Gate, Phillaur, District Jalandhar;
7. M/s C.G.Real Estate, G.T.Road, Goraya, District Jalandhar;
8. M/s C.H. Real Estate, G.T.Road, Goraya, District Jalandhar;
9. M/s Shaan Fibres Private Limited, G.T. Road, Goraya, District Jalandhar.

[4] The petitioner in the lead case, namely, Chunni Lal Gaba, his sons and other family members are facing trial under the N.D.P.S. Act wherein there are serious allegations of manufacturing contraband/synthetic drugs known in the underworld as ICE, by mis-utilizing the controlled substances allocated to their pharmaceutical industries, in violation of the provisions like those contained in the Narcotic Drugs and Psychotropic Substances (Regulation of Controlled Substances)

Order, 2013. It may be seen from the notices challenged in these petitions that the learned Special Judge-cum-Sessions Judge, Patiala had summoned the petitioners for 29.02.2016. The notices were duly received by each petitioner well in advance but, for the reasons best known to them, they did not appear before the learned Special Judge either in person or through counsel. It is not their case that notices were received late or after the expiry of the date fixed. In fact, they have positively averred that the notices were duly received by them. Their learned counsel submits that due to non-appearance on 29.02.2016, the learned Special Judge has now summoned the petitioners throughailable warrants. It does show that the learned Special Judge firstly made an attempt to secure the presence of petitioners through ordinary process and has not adopted the coercive means mechanically. The petitioners were obligated to put in appearance firstly before the Special Court and seek interim protection, if any.

[5] However, the petitioners have apparently attempted to over-reach the judicial process and after allowing the date of appearance to expire, have directly rushed to this Court for quashing of the summons issued to secure their presence in a warrant case.

[6] Having heard their learned counsel for a considerable length, we are satisfied that the petitioners cannot be allowed to bye-pass the prescribed procedure so as to enable them to appear before the learned Special Judge with an order of pre-arrest bail in hands.

[7] That apart, since the petitioners are said to have summoned afresh throughailable warrants, they may appear before the learned Special Judge and furnish bail bonds to the

satisfaction of that Court after making out a case that no needful purpose shall be served by their judicial incarceration.

[8] As regard to the women family-members, it is urged by their learned counsel that they are Directors/Partners only in papers without having any control on the day to day affairs of the Companies/Firms. We have no reason to doubt that the learned Special Judge shall, having regard to the legislative intentment behind the first proviso to Section 45(1) (ii) of the 2002 Act, consider the release of women accused on bail unless a strong case of pro-active role played by anyone of them for commission of the alleged offence is made out.

[9] We thus decline to entertain these petitions and relegate the petitioners to approach the learned Special Judge, Patiala.

[10] Ordered accordingly.

[SURYA KANT]
JUDGE

March 02, 2016
mohinder

[P.B.BAJANTHRI]
JUDGE