

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6177-2021

Date of Decision: 15.02.2021

Sandeep

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Naveen Sheoran, Deputy Advocate General, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No.583 dated 04.11.2020, under Sections 7 and 10 of the Essential Commodities Act, 1955, registered at Police Station Quilla Panipat, District Panipat.

The allegations which have been contained in the FIR are that it was lodged on the basis of information given by Vinod Kumar, Deputy Inspector, Food and Supply posted at Babarpur Centre by alleging that the petitioner, who is the depot holder along with one another person had violated the PDS Control Order 2009 and misappropriated the mustard oil and sugar. The District Food and Supply Controller, Panipat has ordered to initiate immediate legal action for misappropriating the mustard oil and sugar. The inquiry of the complaint was also done and on inquiry, the

allegations levelled by the complainant was found that vide Bill No.2882 dated 05.07.2015, 1 quintal 32 kilograms of mustard oil was sent on vehicle bearing No.HR-67-7033 and vide Bill No.4201 on 22.07.2018, 54 kilograms of sugar was sent on same vehicle through Dev Transport but the petitioner and his nominee misappropriated the above-said mustered oil and sugar and they have not given any written or oral information to the department in respect of the government ration article to the department and they have intentionally not received the articles at POS machine.

The learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and part of the factual position depicted in the FIR was false. He has further submitted that in fact vide Annexure P-2 dated 16.07.2018, the depot of the petitioner was sealed and the POS machine was also confiscated on 15.07.2018. He has further referred to Annexure P-3 dated 26.09.2019, by which petitioner has requested that the articles which were lying with him should be taken back by the department. He has further referred to Annexure P-4, which is a letter from Assistant Inspector, Food and Supply, Babarpur, to the Inspector, P.R. Centre, Babarpur, wherein it was mentioned that depot holder has written that some wheat, mustard oil and sugar were lying in the depot.

The learned counsel for the petitioner has further submitted that firstly, there was a delay of two years in lodging of the FIR and there is no justification for the same and secondly, in fact it was not a case of misappropriation because the petitioner had rather intimated the department that the POS machine has already been sealed by the department on 16.07.2018 and whatever was sent to him during that period had to be taken

away back by the department but the department did not do anything and rather abused the process of law by filing the present FIR.

The learned counsel has further referred to Annexure P-5 to show that the reason for lodging of the FIR was a result of malafide intention on the part of the respondent officials because the petitioner had sought information under the RTI Act that in the same area, the department had itself violated the guidelines issued by the government with regard to allotting of depots to more than one person in one family and in order to settle the scores with the petitioner and the present FIR has been lodged after a passage of two years. The learned counsel has further submitted that the petitioner is in custody since 26.01.2021 and although the case is still in the stage of investigation but his liberty has been curtailed for no reason whatsoever and it was only because of result of malafide intention on the part of the department officials.

On the other hand, learned State counsel has submitted that there are three more FIRs also pending against the present petitioner. He has further submitted that although the petitioner is on bail in all the other cases but the matter requires further investigation and it pertains to misappropriation of food grains and therefore, he is not entitled for the grant of regular bail.

I have heard the learned counsel for the parties.

So far as the delay in lodging of the FIR is concerned, at this stage, no justifiable reason has come forward from the learned State counsel and so far as the other letters, which were written by the petitioner to his department for taking away the food materials which were available with

him that also deserves attention. The POS machine was sealed on 16.07.2018 and as per the allegations contained in the FIR, the mustered oil and sugar were delivered to him on 05.07.2018 and 22.07.2018 regarding which the petitioner had rather written to the department official to take away back. Furthermore, a perusal of the FIR would show that it has been alleged that after receiving the mustered oil and sugar, the petitioner has not given any written or oral information to the department in respect of the government ration articles to the department. However, there appears to be discrepancy in the aforesaid allegation made in the FIR.

Therefore, without going into the merits of the present case and considering the totality and circumstances of the present case, I deem it fit and proper to allow the present petition. Consequently, the present petition is allowed. The petitioner shall be admitted to regular bail on his furnishing bail/surety bonds subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

15.02.2021
adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No