

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104)

CRM-M-8627 of 2021

Date of Decision: 07.04.2021

Baldev Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sandeep Singh Jattan, Advocate, for the petitioner.
Mr. B.S. Virk, DAG, Haryana

Amol Rattan Singh, J. (Oral)

Case heard be way of video conferencing.

On February 24, 2021, the following order had been passed:-

“By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of ‘anticipatory bail’, upon FIR no.24, dated 09.02.2021, having been registered at Police Station Sadar Jagadhri, District Yamuna Nagar, alleging therein the commission of offences punishable under the provisions of Sections 5, 25, 28 of FCO (Fertilizer Control Order), 1985 and under Sections 3 & 7 of the Essential Commodities Act, 1955, with Sections 120-B, 420, of the IPC and Sections 181, 192, 196, 177 and 190 of the Motor Vehicle Act, 1988, added subsequently in the FIR.

Learned counsel for the petitioner submits that the bags of fertilizers (urea) as were apprehended were duly accompanied by invoices issued by the petitioners’ firm, in the name of one Rinku son of Darshan Lal, who subsequently moved an application seeking the release of the said bags on *sapurdari*, and therefore the petitioner cannot be accused of having committed any offence.

Without making any comment on the correctness of the aforesaid contention, however *prima facie* at least he having made out a case at this stage, notice of motion is issued, , with Mr. B.S. Virk, learned DAG, Haryana, accepting notice on behalf of the respondent State, on the asking of the court.

A copy of the petition be supplied to him by the learned counsel

for the petitioner today itself.

Adjourned to 07.04.2021.

A gazetted officer from the Agriculture Department/Food Supplies, i.e. the department whose Inspector is stated to have apprehended the goods, is directed to file a reply to the petition, taking into consideration the aforesaid contention made by counsel for the petitioner.

It shall also be verified that the person in whose name the invoices were issued, is an owner of land or has any valid proof of having taken any land on lease, and further if there is any bar on any other person purchasing fertilizer.

Of course, learned State counsel submits that as per his instructions, the person apprehended at the spot, i.e. Rinku son of Randhir Singh, stated the fertilizer was actually being sold to some glue factory which is impermissible, with it only permissible to be sold for use in an agricultural field.

In the meanwhile, the petitioner is directed to join investigation within a week and upon him so joining, in case he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to

join him in investigation.”

Today, learned State counsel, on instructions, submits that the petitioner in this petition has joined investigation and presently at least his custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the custodial interrogation of the petitioner, this petition has in fact

been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 10 days notice before arrest, duly shown to be served upon him.

07.04.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No