

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19559-2021

Date of Decision: 24.05.2021

Surender Kumar and another

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. H.N. Sahu, Advocate, for the petitioners.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed seeking grant of regular bail under Section 439 of Code of Criminal Procedure in FIR No.78 dated 22.04.2021, under Section 420 IPC and Sections 7 & 10 of Essential Commodities Act, 1955, registered at Police Station Bhuna, District Fatehabad.

The learned counsel for the petitioners has submitted that as per the FIR an allegation has been made against both the petitioners that they had come in the village in a vehicle and they were having possession of 50 bags (50 kg each) of a company and the bags were not having any batch number nor any name of manufacturing company was shown and they were

not having any license in this regard. The learned counsel submitted that the provisions of Sections 7 and 10 of the Essential Commodities Act, 1955 are bailable and it was only to harass the petitioners that the provision of Section 420 IPC was inserted. He submitted that on the face of it the provision of Section 420 IPC was not attracted as it has not been reflected in the FIR itself that any loss has been caused to the complainant. He has further submitted that no recovery is to be made from the petitioners. The learned counsel for the petitioners has further relied upon Annexure P-2 to state that the petitioners have been duly authorized by the State of Haryana for dealing with the compost and, therefore, the present FIR was false. He further submitted that the petitioners are in custody since 22.04.2021 and has, therefore, prayed for grant of regular bail to the petitioners.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana has submitted that it is correct that the petitioners are in custody since 22.04.2021 but as per the FIR they have brought to the village 50 bags of compost without any manufacturing name or license. He has further submitted that the matter is at the investigation stage but no recovery is to be made from the petitioners as of now.

I have heard the learned counsel for the parties.

As per the FIR the petitioners had come to the village along with 50 bags of compost without having any name of the manufacturing company or batch number or license. However, the learned counsel for the petitioners has brought to this notice of this Court Annexure P-2 which is the letter of authorization etc. to contend that the petitioners are having due authorization from the State of Haryana. Furthermore, it is not the case of the State that in case the petitioners are released on bail then they may

influence any witness or may tamper with any evidence or may flee from justice. Furthermore, as per the learned counsel for the petitioners no recovery is to be made from the petitioners.

Therefore, without commenting on the merit of the case and considering the totality of circumstances in the present case, the present petition is allowed. The petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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.

24.05.2021

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No