

**206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-8439-2022
Date of Decision: 24.03.2022**

Surender Kumar @ Shunty Chhabra ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anmol Puri, Advocate for
Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. N.S. Panwar, DAG, Haryana.

(Through Video Conferencing)

JASGURPREET SINGH PURI, J.(ORAL)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.433, dated 18.11.2021 under Sections 420, 506 and 120-B IPC, Section 65 of The Copyright Act, Sections 10, 3(2) (d), 3(2) (a) of Essential Commodities Act, Sections 7, 12 and 19 of The Fertilizer Order Arms Act (Section 25 and 27 of Arms Act, deleted later on) registered at Police Station Ellenabad, District Sirsa.

2. As per the contents of the FIR which was registered on the basis of telephonic message that near the petrol pump of village Partap Nagar, in one of the godown, a business of Di-Ammonium Phosphate (DAP) is going on and on reaching on the site, the farmers present there submitted complaint in writing wherein it was stated that the godown is of Sh. Deep Singh son of Sher Singh and in the meantime, the Quality Control Inspector and SDAO, Sirsa

inspected the godown of Sh. Deep Singh and various items were found

including DAP Chambal Fertilizer Chemical Ltd. Godepan, 110 stitched bags, some bags of Urea and some more bags of DAP and the details of the same have been described in the FIR itself. The bags of DAP of renowned companies such as CFCL and IFFCO appeared to be fake and were kept in the godown for sale. There was a written complaint in which it was shown that one Gurlal Singh son of Harpal came on the site then one Virendra alias Rama, Paramjit Singh son of Mahendra Singh, Shunty Chhabra Rania (petitioner) and Rana threatened their colleague Gurlal Singh by taking out a revolver and asked him to go from there and said that they have a setting with the Government and that they will do whatever they want to do and on this the persons there informed the colleagues of the Sanyukt Kisan Morcha. The complainants demanded a stern action against these persons since the DAP and other items were fake.

3. Learned counsel for the petitioner submitted that during the course of the investigation, the provisions of the Arms Act have since been dropped by the police but the proceeding under the IPC and the Essential Commodities Act are still being continued. He submitted that so far as the other two co-accused are concerned, they have been released on regular bail by the learned trial Court and so far as the present petitioner is concerned, he has been falsely implicated in the present case. He further submitted that as per the reply filed by the State in which the FSL report has been attached, it cannot be said that the DAP was fake because as per the report, only the nitrogen content was less.

4. On the other hand, Mr. Panwar, learned DAG Haryana, has submitted that a detailed reply has been filed by the State in the present case and while referring to the reply filed by the State, he submitted that the confiscated quantity was sent to the FSL laboratory wherein it was found that

the contents of the bag, especially the DAP, were fake and the sample was not according to the specification and it failed in nitrogen and the ammonical nitrogen test. He referred to Annexure A-3 in this regard. He further referred to paragraph 5 of the affidavit wherein the total quantity has been mentioned and paragraph 6 of the affidavit where it has been submitted that the FSL report of the samples were received on 26th November, 2021 and it shows that the sample of DAP is failed/fake and sample of urea is passed. The learned DAG further submitted that apart from these fake DAP, there was also recovery of 177 bags of raw materials which were closed and sealed with bases (50 kg each approx.) and 556 white empty bags of raw materials. He has also referred to paragraph 4 of the affidavit to the effect that the petitioner is the mastermind in making fake fertilizer and raw material in this regard was also recovered apart from the empty bags and the user of the fertilizer was the farmer and consequently, huge loss has been caused to the farmers. He further submitted that the present FIR was lodged in the month of November, 2021 and for the last four months, the petitioner is absconding and so far as the regular bail granted to the other two co-accused is concerned, the petitioner cannot be given the benefit of the same because the petitioner has filed the present petition for grant of anticipatory bail and instead of cooperating and surrendering before the police, he is absconding. Learned State Counsel has further submitted that the arguments raised by the learned counsel for the petitioner that the fertilizer was not fake because less nitrogen content was found in the DAP sample is wrong in view of the fact that nitrogen and ammonium content in the DAP has to be up to the prescribed standards and the lower quantity of the same has been found in view of the fact that they were manufacturing the same on their own while putting the seal of other companies and therefore custodial investigation of the petitioner is required to

ascertain modus operandi adopted by the petitioner and also as to from how long they were doing this business of manufacturing DAP on their own.

5. I have heard the learned counsel for the parties.

6. In response to the notice of motion issued by this court, the State has filed its reply. Learned counsel for the petitioner has raised an argument that the other co-accused has been granted regular bail. But the argument of the learned counsel for the petitioner would not suffice in view of the fact that the present case pertains to grant of anticipatory bail and the petitioner is absconding for the last four months. The second argument raised by the learned counsel for the petitioner was that vide report of the FSL, the prescribed quantity of nitrogen and ammonia was less would not mean that the samples were fake. Such an argument raised by the learned counsel for the petitioner would also be not sustainable in view of the fact that when the prescribed quantity of nitrogen and ammonia is not present in the DAP, then the same can always be termed to be a fake DAP. It is not the case of the parties that the DAP was manufactured by some other company and that they were only distributors of the same but it is the case of the State that the petitioner is the mastermind of the fertilizer found from the other two co-accused who were manufacturing fake DAP, lesser quantity of ammonia and nitrogen and was also found to be fake fertilizer. The magnitude and the gravity of the case in the present FIR is very high particularly in view of the fact that the fertilizer must have been used not by some persons but by a large number of persons who are farmers.

7. Therefore, in view of the facts and circumstances and considering the gravity of the present case, this Court does not deem it fit and proper to grant the concession of anticipatory bail to the petitioner. Consequently, finding no merit in this petition, the same is hereby dismissed.

8. It is made clear that the aforesaid observations would not mean anything on the merits of the case, as the same are only for the purpose of deciding the present petition.

(JASGURPREET SINGH PURI)
JUDGE

March 24, 2022
Manpreet

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