

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:063589
CRM-M-9871-2023
Date of Decision: May 03, 2023

Hans Raj ...Petitioner

Versus

State of Haryana ...Respondent

2. Neutral Citation No. 2023:PHHC:063594
CRM-M-9881-2023

Sandeep Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. D.P.S. Bajwa, Advocate for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

This order shall dispose of two petitions, titled above as in both of them prayer has been made for grant of regular bail in case FIR No.248, dated 29.08.2022 (Annexure P-1) registered at Police Station Ratia, District Fatehabad, under Section 420 IPC and Sections 7 and 10 of the Essential Commodities Act, 1955. As per final report under Section 173 Cr.P.C., challan has been filed under Sections 420, 468, 417 and 471 of IPC and Sections 7 and 10 of the Essential Commodities Act, 1955 and Insecticide Act, 1971.

Separate status report has been filed in both the cases.

Allegations are that on 25.08.2022, Quality Control Inspector, Department of Agriculture, Fathebad along with C.M. Flying Squad, on the basis of secret information raided the firm M/s Nutri Vision Agri Cem Pvt. Ltd., situated near Petrol Pump, Nagpur Road,

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Khunan. Both the petitioners Hans Raj and Sandeep Kumar were called at the spot. Heavy quantity of fertilizer and pesticides besides material relating to manufacturing of the insecticides was found there. Although the petitioners could show the licence for retail sale licence and retail seed sale licence. Samples were drawn and the factory was sealed. On 26.08.2022, list of material found in the factory was prepared, which included the packing material for insecticide and fertilizer. It is alleged that the petitioners were illegally preparing insecticide in the factory without having any licence for distribution and for manufacturing of the same. They were cheating farmers by fixing wrappers/stickers and thus the firm contraband the provisions of Insecticide Act, Fertilizer Control Order, 1995 and Essential Commodities Act. FIR was registered. Samples were drawn of the material found from the spot and were got analysed. Most of them failed. The petitioners were arrested on 17.11.2022 and were interrogated. They suffered disclosure statement disclosing the manner in which they used to prepare fake fertilizer and insecticide by representing the same as original.

It is contended by the petitioners that both of them have been falsely implicated. Though, the raid was conducted on 25.08.2022, but the FIR was registered on 29.08.2022. A complaint was made on 26.08.2022 by the Quality Control Inspector, copy of which is Annexure P-2, but in the FIR there is no reference of said complaint. There is no assertion in the complaint (Annexure P-2) that two machines having weight were lying at the spot, but said fact is mentioned in the FIR

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registered after four days of the raid. Still further, it is contended by learned counsel for the petitioners that no complaint was ever made by any member of the general public regarding sale of mis-branded fertilizers. In the absence of any such complaint, no offence under Section 420 IPC is made out. Learned counsel placed reliance upon the case of *“Rakesh Kumar v. State of Haryana”* (CRM-M-36005 of 2009, decided on 26.04.2011), wherein allegation in the FIR was that the petitioner had stored artificial ghee for selling in the market. It was found that nobody had any complaint regarding sale of artificial ghee against him, so Section 420 IPC was not made out. Same view was also taken by this High Court in case of *“Varinder Singh v. State of Punjab”* (CRM-M-10224-2015, decided on 09.10.2018).

Learned counsel further contends that petitioner is in custody for the last more than six months; that all the offences are triable by the Magistrate; that investigation is already complete and challan has been filed, but till date, even the charges have not been framed and so the petitioners be allowed regular bail.

Opposing the bail petition, learned State counsel submits that by manufacturing fake fertilizer besides putting wrapper thereon, petitioners were indulging in cheating of innocent farmers.

I have considered submissions of learned counsel for the petitioners and that of learned State counsel and perused the paper book.

Both the petitioners are in custody since 17.11.2022, i.e. for the last more than 5 months. Investigation is already complete and

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challan has also been filed. Trial is likely to take time to conclude. No purpose shall be served by keeping the petitioners detained.

Having regard to the aforesaid contentions raised by learned counsel for the petitioners, the other circumstances stated above but without commenting further on the merits of the case, both the petitions are allowed. Both the petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court.

Photocopy of this order be placed on the connected case file.

May 03, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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