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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37731-2023

Date of Decision: 31.08.2023

JAGDEEP SINGH & ANOTHER

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Rai, Sr. Advocate assisted by
Mr. Sangram Singh Saron, Advocate
Mr. Ashish Kothari, Advocate
Ms. Pratha Pant, Advocate
for the petitioners.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0075 dated 14.07.2023 (Annexure P-1) registered under Sections 17, 18, 29 and 33 of the Insecticides Act, 1968 and Sections 188, 420 and 120-C of the IPC, 1860 at Police Station Dehlon, Ludhiana.

2. The present FIR came to be registered at the instance of Shavinder Singh, Agriculture Development (GK)-cum-Notified Pesticides Inspector, Dehlon, Block Dehlon, District Ludhiana against persons responsible for the affairs of M/s Sumil Chemical Industries Pvt. Ltd. Bharuch, Gujarat and M/s Chemical Industries Pvt. Ltd. Village Jharkar, Ludhiana with the allegations that when the Selling Centre-cum-Godown of M/s Chemical Industries Pvt. Ltd. at Balraj Complex-II, Godown Nos.2 and 3 Jharkar Road, Village Jharkar, Ludhiana was inspected on 13.07.2023 a

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pesticide by the name of “Ammonium Salt of Glyposhate 71% S.G. (Glyposhate Formulations/Concentration), Brand Name Glygran, Batch No.Z043423F01, Date of Manufacturing: 02.06.2023, Date of Expiry: 01.06.2025, quantity 1000 KG (each packing 100 gram) was found which had been banned by the State of Punjab and by selling the same to innocent farmers at a higher price, the health of the farmers and the population at large was being affected as the pesticide was polluting the air and water and therefore, proving hazardous to the environment.

3. The learned Senior counsel for the petitioner contends that the petitioners have been falsely implicated in the present case. They had been arrested by the police on 14.07.2023 without following the mandatory procedure prescribed under Section 41A of Cr.P.C. and the Guidelines laid down by the Hon’ble Supreme Court in **Re. Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273**. In fact, the FIR was not maintainable and the only remedy available was to file a private complaint in accordance with the provisions of the Insecticides Act which was a special Act governing the field. The pesticide in question was manufactured in Gujarat and had been transported to the mother warehouse at Ludhiana from where it was to be sent further to other depots in North-India. It was not meant for sale in the State of Punjab. As per the Government order dated 23.10.2018 (Annexure P-2) only the sale of the pesticide was prohibited and not possession. The sale of the pesticide could have been prohibited if at all only in terms of Section 27 of the Insecticides Act by publishing a notification in the official gazette and that too only for a period of 90 days at best which stood expired on 21.01.2019. A similar notification had been issued by the Government of

India on 21.10.2022 (Annexure P-3) and the said notification had been stayed by the Delhi High Court vide order dated 23.11.2022 (Annexure P-4). As the petitioners had been taken into custody on 14.07.2023 and had been granted the concession of interim bail vide order dated 17.08.2023 and the said concession had not been misused, the petitioners were entitled to the concession of bail as their custodial interrogation was not required.

4. A reply dated 28.08.2023 by way of an affidavit of Shivinder Singh, Agriculture Development Officer (DW)-cum-Notified Insecticide Inspector, Block Dehlon, Ludhiana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the Notification (Annexure P-2) specifically prohibited the sale of Glyphosate 71% S.G. (Glyphosate Formulations/Concentration), Brand Name Glygran in the State of Punjab. The story propounded by the accused that the pesticide manufactured in Gujarat was brought to Punjab for distribution in North-India could not be believed. The accused could very well have dispatched the pesticides to the depots directly without routing it through Punjab. There was evidence to suggest that the petitioners were in fact trying to sell the pesticide in question in the State of Punjab as well. As offences under the IPC had also been invoked, the offences were cognizable for which an FIR could be registered. He, however, by referring to the reply concedes that the Notification dated 23.10.2018 (Annexure P-2) had not been issued under Section 27 of the Insecticide Act, 1968 but has been issued in furtherance of the resolution of the Government of India dated 14.06.2018.

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

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6. Whether or not any offence has been committed shall be adjudicated upon during the course of the trial. Admittedly, the petitioners were arrested on 14.07.2023 and were granted the concession of interim bail by this Court vide order dated 17.08.2023. It is no one's case that the petitioners ever misused the concession of interim bail. Since, even at the time of their arrest, the Investigating Agency did not intend to seek the custody of the petitioners as was evident from the fact that a Notice under Section 41A of the Cr.P.C. had been prepared by the Investigating Agency, the further incarceration of the petitioners is not warranted.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

31.08.2023

JITESH

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