

103**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-63125-2023 (O&M)
Date of decision : 19.12.2023**

Sandeep Singh Sandhu

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Preetinder S. Ahluwalia, Advocate for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab,
assisted by Dr. Vijay Kumar, District Health Officer-cum-
Designated Officer (Food Safety), Patiala
and ASI Jitender Kumar.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.130 dated 17.11.2023, under Sections 409, 272 of the Indian Penal Code, 1860 (for short, '*the IPC*') (Sections 407 & 120-B of the IPC added subsequently); and Section 16 (1AA) & 16 (1B) of Prevention of Food Adulteration Act, 1954 (substituted by Section 59 of the Food Safety and Standards Act, 2006); registered at Police Station Anaj Mandi, Patiala.

2. Above FIR was registered on the basis of written complaint dated 11.11.2023 made by Sh. Vijay Kumar, District Health Officer-cum-Designated Officer (Food Safety), O/o Civil Surgeon, Patiala, with the allegations that “on 06.11.2023 sample was filled from RK Chilling Centre, Plot No. 219-C, Focal Point, Patiala and after filling the sample the Food Safety Officer Sandeep Singh had sealed *paneer* 500 kg, banaspati 15 kg, skimmed milk powder (SMP) 15 kg, expire skimmed milk powder (SMP) 10 kg. On 10.11.2023 on receipt of report with regard to the samples it came to knowledge that the quality of the *paneer* is substandard and skimmed milk powder (SMP) 15 kg is Misleading and Unsafe and Expire skimmed milk powder (SMP) 10 kg, due to its report came Expired, subsequently a notice was given to Rajinder Kumar if he wants to get these samples tested again. After giving notice to him, Rajinder Kumar had given in writing that I do not want to get conducted test again and the material which has been sealed, about which the report is not correct, that sealed material will be destroyed. When Sandeep Singh FSO had given me letter to destroy this sealed material and after breaking the seal, when the sealed material was produced before me for undertaking further proceedings then it came to knowledge that the sealed *paneer* 5 (five) quintal was instead found to be 1 (one) quintal only. In this regard it was informed to the Hon’ble SHO, Police Station Anaj Mandi, Patiala and he had sent ASI Raj Singh Belt No.1526 and ASI Jatinder Kumar Belt No.2505 on the spot. In their presence, 1 quintal *paneer*

(SUBSTANDARD), and skimmed milk powder (SMP) 10 kg, whose report was Expired, was destroyed. It is requested to you that appropriate proceedings may be undertaken with regard to misappropriation of 4 quintal sealed *paneer* in connivance.”

3. Contends that present FIR has been registered to take revenge as a counter blast to the representations dated 20.07.2023, 10.10.2023 and 03.11.2023 (P-2, P-3 & P-4 respectively) made by the petitioner as well as his colleagues against the complainant-Vijay Kumar, DHO, Patiala. While making reference to seizure memo, surety bonds and forwarding letter dated 06.11.2023/10.11.2023 (P-6 to P-9 respectively), learned counsel emphatically contended that as a matter of fact and record only 100 Kgs. *Paneer* was seized by the raiding party on 06.11.2023; thus, the quantity of 500 Kgs. as alleged by the prosecution is not only factually incorrect, rather as a result of fabrication of documents by the complainant himself. Lastly, contended that in view of the facts and circumstances of the case, no offence under Sections 407, 409, 272, 120-B IPC and Section 59 of the Food Safety and Standards Act, 2006, is made out against the petitioner.

4. *Per contra*, learned State counsel, after obtaining instructions, opposed the prayer while submitting that a raid was conducted in the premises of R.K.Chilling Centre on 06.11.2023 and various items, including 500 Kgs. *paneer* was seized on the spot. Further submits that after drawing the samples, one sample from each

item was sent to the laboratory for analysis and report in this regard was received on 10.11.2023 and items were found to be sub-standard and unsafe for human consumption. Further submitted that petitioner in connivance with the co-accused Rajinder Kumar (owner of R.K.Chilling Centre) misappropriated 400 Kgs. sub-standard *paneer* and has shown the recovery only as 100 Kgs. while forging the official record; hence, his custodial interrogation is very much necessary to find out the truth.

5. Heard learned counsel for the parties and perused the paper-book.

6. It is not in dispute that a raid was conducted on 06.11.2023 at R.K. Chilling Centre, Focal Point, Patiala. As per prosecution case, raiding party seized various items being suspicious i.e. *Makhan* 40 kg., *Khoa* 80 kg., Skimmed Milk Powder 20 kg., Verka SMP 10 kg.; and Gagan Vanaspati 15 litres. After completion of the necessary formalities, 04 samples of each item were drawn on the spot and out of those, 01 sample duly sealed from each item was sent to laboratory for analysis. It is acknowledged by both sides that report from quarter concerned was received on 10.11.2023 and according to which 03 items were found to be sub-standard and unsafe for human consumption and relevant extract of the report can be recapitulated as under:-

<i>Sr. No</i>	<i>Code No. of Sample</i>	<i>Nature of Article</i>	<i>Stock</i>	<i>Report</i>
<i>1</i>	<i>56740/VK/205/23</i>	<i>Paneer</i>	<i>100KG</i>	<i>Substandard</i>

2	56743/VK/208/23	Skimmed Milk Powder	20KG	Misleading & Unsafe
3	56744/VK/209/23	Verka SMP	10KG	Expired

7. After receipt of the aforesaid report, petitioner sent a Memo. No.FSO/PTA-2/23/179 dated 10.11.2023 to the complainant for further directions in the matter in terms of Section 47(4) of the Food Safety and Standards Act and Rules framed thereunder. Upon receipt of this communication, the complainant along with his team reached at R.K.Chilling Centre for taking necessary action; but found that quantity of *paneer* was available only 100 Kgs. instead of 500 Kgs. which was actually seized at the time of raid.

8. It is noteworthy that during the course of hearing, learned State counsel has produced the original letter dated 10.11.2023 (*supra*) as well as the endorsement made on the back side thereof by the complainant and photocopy of the same is taken on record as Mark 'X'.

Registry to tag the same at appropriate place.

For reference, the translated version of the endorsement dated 10.11.2023 (*supra*) can be recapitulated as under:-

“Today, on dated 10.11.23, when I along with my team reached for taking necessary action, then 100 kg. paneer was found instead of 500 kg. which was actually seized. In this regard, Incharge Police Station, Anaj Mandi, was informed, who sent two police officers, namely, ASI Jatinder Kumar, No.2505 Patiala and ASI Raj No.1526 Patiala, in whose presence, order was given to destroy the items as per list.

*Sd/-
Designated Officer (Food Safety)
O/o Civil Surgeon”*

9. Although learned counsel for the petitioner seriously disputed the above endorsement, but since it is an original official document; hence, the objection raised to that effect is un-acceptable at this stage.

10. The contention raised on behalf of the petitioner that present FIR has been registered just as a revenge by the complainant in retaliation to the representations dated 20.07.2023, 10.10.2023 & 03.11.2023 (P-2 to P-4), at best, may be a plea of defense during trial; hence, not helpful for seeking pre-arrest bail.

11. Thus, as on today, *prima facie* there is sufficient material available with the prosecution to the effect that at the time of raid on 06.11.2023, apart from other items, 500 Kgs. *paneer* was also seized; but on 10.11.2023, the quantity of *paneer* was found to be only 100 Kgs. Since seized material along with original documents were under the care and supervision of the present petitioner; therefore, he would be answerable as to what happened with the 400 Kgs. *paneer*?

12. Even the documents produced by the petitioner i.e. P-6 & P-7 showing the quantity of *paneer* as 100 Kgs. are claimed to be fabricated by the complainant, during the course of hearing.

13. In such a scenario, custodial interrogation would be the only way out to know the *modus operandi* adopted by the petitioner in

connivance with co-accused for misappropriation of 400 Kgs. *paneer* under the garb of allegedly forged documents (P-6 & P-7).

14. In view of the above discussion, there is no option except to dismiss the petition.

15. Ordered accordingly.

16. Needless to say that above observations may not be construed as an expression of opinion on merits of the case in any manner; rather confined only to decide the present bail matter.

17. Pending application(s), if any, shall stand disposed off.

19.12.2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No