

2024:PHHC:122077



204.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28635-2022
Date of decision: 12.09.2024

Sameer Vinod Shah and another Petitioners

Versus

State of Haryana and another Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sangram S. Saron, Advocate and
Mr. Darshan Mehta, Advocate,
Ms. Shubreet Kaur, Advocate,
Mr. M.B. Rajwade, Advocate, for the petitioners.

Mr. Rajiv Sidhu, DAG, Haryana, for respondent No.1.

Mr. Rakesh Nehra, Senior Advocate with
Mr. Reetesh Kumar, Advocate,
Mr. Vikalp Hooda, Advocate, for respondent No.2.

GURBIR SINGH, J.

1. This petition has been filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No.231, dated 24.06.2022, under Sections 406, 420 of IPC, registered at Police Station Safidon, District Jind.
2. Vide order dated 12.07.2022, this Court while issuing notice of motion, passed the following order:-

“Prayer in this petition is for grant of anticipatory bail to the petitioners in case bearing FIR No.231 dated 24.06.2022,

registered at Police Station Safidon, District Jind, under Sections 406 and 420 IPC.

Learned Senior counsel for the petitioners submits that petitioner No.1 is the Chairman and Managing Director and petitioner No.2 is the Regional Sales Manager of Chembond Chemicals Limited, Mumbai (hereinafter referred to as the Company); that in the year 2017, the said Company appointed M/s Sunil Medical Poultry Centre, owned by Balinder Singh, as a Distributor for the supply of animal nutrition supplements and had regular transactions with the said Company; that as per the allegations contained in the FIR, the complainant had purchased the said feed products from said Dealer in the year 2018 and that the same were found to be of a low quality and that the present FIR was got registered by the complainant after a delay of 4 years, which apparently speaks of false implication. He further submits that there is no detail of any invoice in the FIR regarding the purchase of the said products by the complainant from the Company of the petitioners or from Sunil Medical Poultry Centre and that the complainant relied upon the report dated 31.01.2019, allegedly issued by Crown Pacific Biotechnology Pvt. Ltd. Still further, it is submitted that as per the allegations contained in the FIR, no liability can be imposed on the petitioners and that the entire case of the prosecution is based on documentary evidence.

Learned Senior counsel for the petitioners further submits that the prosecution agency has wrongly relied upon the report dated 12.06.2019 issued by Shriram Institute for Industrial Research, New Delhi, to which the alleged sample was sent by Balinder Singh, the distributor of the Company and that the sample pertains to batch No.792027 and that the products pertain to the said batch number, were never purchased by the complainant and thus, the said report cannot be relied upon. He further submits that the aforesaid batch was purchased by Sunil Medical Poultry Centre vide invoice dated 22.11.2018 and that the complainant and Balinder Singh, in connivance with each other, had got registered the present false FIR against the petitioners. Still further, it is submitted that Balinder Singh had issued a cheque for Rs.40,83,150/- dated 23.04.2019 in favour of the Company, which on presentation was got dishonoured resulting into filing of a complaint under Section 138 NI Act, 1881, against Balinder Singh by the Company at Mumbai; that the present FIR has been got registered by said Balinder Singh through the complainant, being a counterblast to the said complaint and that in the said complaint, Balinder Singh has been ordered to be summoned throughailable warrants.

Learned Senior counsel for the petitioners further submits that the present FIR has been registered after the shelf life of the products was over; that the reports relied upon by the prosecution agency are against the Indian Standard Poultry Feeds Specification, which has been approved by Food and Agricultural Divisional Council and adopted by Bureau of Indian Standards. He further submits that the petitioners' Company got the sample tested from the Ana Laboratories, Mumbai and the same was found to be of a standard quality.

On the other hand learned Senior Counsel for the complainant, who has appeared, after having been served with the advance copy of the petition, has vehemently argued that the FIR had been registered only after the aforesaid products were sent to the laboratory i.e. Shriram Institute for Industrial Research, New Delhi and Crown Pacific Biotechnology Pvt. Ltd., Singapore. It is, thus, submitted that the present one is a case, where two laboratories have found that the products were of a substandard quality, which fully corroborates the huge loss caused to the complainant. It is further submitted that the contentions of the learned Senior counsel for the petitioners that there is a collusion between the complainant and the Dealer, resulting into the registration of the FIR, are bereft of any merit and rather are motivated. By so pleading, the petitioners are trying to wriggle out of their criminal liability.

The learned State counsel has also argued on the similar lines.

I have heard learned counsel for the parties.

The allegations contained in the FIR are that the because of the loss of productivity and hatchability due to low quality vitamin premix, the complainant has suffered huge loss to the tune of Rs.95,89,750/-. It is not the case of the complainant that he was not supplied the vitamin premix by M/s Sunil Medical Poultry Centre, which in turn had purchased the same from the petitioners' Company. Rather, the allegations are of supply of the substandard quality of the said products. The petitioners dispute the products belonging to the batch number, the sample whereof was sent for examination/testing to the laboratory. On the other hand, the complainant insists upon the sample being the part of the purchased products and derives support from the laboratory(ies) reports obtained.

The matter needs investigation as to the product being of low quality and the complainant's having suffered alleged huge financial losses as a result thereof. Whether or not the samples already drawn for laboratories' investigation, were part of the same products that were purchased by the

complainant, can only be ascertained on the basis of investigation.

Notice of motion.

Mr. Ashok Chaudhary, Additional Advocate General, Haryana and Mr. Rajesh Malik, Advocate, who are present in the Court, accept notice on behalf of respondent Nos.1 and 2, respectively.

Adjourned to 11.10.2022.

In the meantime, the petitioners are directed to join the investigation and in case they are sought to be arrested, they shall be released on ad-interim anticipatory bail, subject to furnishing of bail/surety bonds, to the satisfaction of the Investigating Office, subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police.”

3. Learned counsel for the petitioners submits that pursuant to aforesaid order dated 12.07.2024, petitioners have already joined the investigation.

4. Learned State counsel, on instructions, submits that though petitioners have joined investigation, but they are not disclosing the address of their manufacturing unit, so their custodial interrogation is required.

4.1 On this, learned counsel for the petitioners submits that the address of the manufacturer is written on the packing and the petitioners can give in writing the same.

5. I have heard learned counsel for the parties.

6. In view of the fact that the petitioners have joined investigation and their further custodial interrogation would not serve any purpose, the order dated 12.07.2024 granting interim bail to the petitioners is made absolute, subject to the condition that the petitioners shall give the address

of their manufacturing unit within a week at the email of the Superintendent of Police, Jind, on the whatsapp number of the Investigating Officer. Thereafter, they are directed to send address of manufacturing unit through post/courier to the Investigating Officer within 10 days. In case of default, the State would be at liberty to move an application for cancellation of bail. Further, the petitioners shall abide by the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit.

7. Petition is allowed accordingly.

(GURBIR SINGH)
JUDGE

September 12, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No