

2024.PHHC.144794



229.

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

CRM-M-47213-2024

Date of decision: 06.11.2024

Sandeep Kumar Sharma

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Preetinder Singh Ahluwalia, Advocate,
Mr. Viren Sibal, Advocate and
Mr. Agam Aggarwal, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

GURBIR SINGH, J.

1. This petition has been filed under Section 483 of Bharatiya Nagrik Suraksha Sanhita for grant of regular bail to the petitioner in case FIR No.245, dated 22.06.2024, under Sections 286, 336, 338, 427, 304-A of IPC and Section 3(a) of Explosive Substances Act, 1908, registered at Police Station Rajendra Park, Gurugram.

2. The aforesaid FIR was registered on the complaint of Satya Parkash with the allegations that he worked on Die Machine in Techno Crat Pvt. Ltd., Daultabad Industrial Area, Tekchand Nagar, Gurugram. He alongwith Arun was working there in the night. On 22.06.2024 at about 02.30 AM at the backside of their Company where GFO Research and Development Private Limited Company was situated, there was a huge

explosion and after few seconds, repeated explosions started. Due to which, the wall of their Company collapsed and caught fire and other Companies adjacent to it also caught fire. In GFO Research and Development Private Limited, fire balls made of explosive material and other explosive materials were kept. Due to said explosion, many people became injured and four other persons died.

3. Learned counsel for the petitioner has argued that the petitioner's Company is involved in research and development of fire safety products and software, and is a registered Company, but the complainant without application of mind filed the complaint against the petitioner. A Committee was duly constituted by the Deputy Commissioner, Gurugram, who stated that the chemical used in the fire balls is mono ammonium phosphate which is fire extinguishing agent and not explosive in nature. Even the investigating agency has not been able to find the cause of the fire and on the basis of inconclusive report of the Committee, the petitioner has been implicated in the present case. Even the provisions of Section 3(a) of the Explosive Substances Act, 1908 are not attracted and except that offence, all other offences are bailable. Investigation in the case has been completed and challan has also been filed. Petitioner is not involved in any other case. He is in custody since 22.06.2024. No useful purpose would be served by keeping the petitioner behind bars anymore. Reliance is placed on ***Ramesan Pillai and others Versus State of Kerala, 2023 SCC OnLine Ker 2151; Noufal Versus State of Kerala, 2023 SCC OnLine Ker 333;***

Bhagat Singh and another Versus Emperor, 1930 SCC OnLine Lah 19; Mukesh @ Jagdish Versus State of Haryana, 2012 SCC OnLine P&H 2310; Fuleshwar Gope Versus Union of India, 2024 SCC OnLine SC 2610.

4. Pursuant to order dated 16.10.2024, status report by way of affidavit dated 04.11.2024 of Shiva Archan, HPS, Assistant Commissioner of Police, West, Gurugram, on behalf of respondent-State, filed in Court today, which is taken on record.

4.1 Learned State counsel has opposed the present petition on the ground that the petitioner is the owner and Director of GFO Research and Development Private Limited and is involved in the manufacturing of fireballs and other explosive substance without obtaining any licence or permit from the competent authority. The fireballs of petitioner's Company exploded which caused damage to his Company as well as other neighbouring Companies. Due to the explosion, four persons had died and various other persons including the present complainant had injured. The FSL report is still awaited.

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

6. Section 3 of Explosive Substances Act, 1908 reads as under:-

"3. Punishment for causing explosion likely to endanger life or property.- Any person who unlawfully and maliciously causes by -

(a) any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with imprisonment for life, or with

rigorous imprisonment of either description which shall not be less than ten years, and shall also be liable to fine;

(b) any special category explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with death, or rigorous imprisonment for life, and shall also be liable to fine.”

6.1 A cursory reading of the provisions of aforesaid Section would show that the Section penalizes the act of causing an explosion likely to endanger life or property. In order to attract Section 3(a), the alleged act should be unlawful and malicious one. The FSL report in the case is yet to come. Moreover, as per the report of the Committee so constituted by the Deputy Commissioner, Gurugram, the explosive substance used was found to be mono ammonium phosphate. The intention on the part of the petitioner was not to cause any explosion. There was no malicious act on the part of petitioner.

6.2 Keeping in view the fact that the petitioner is in custody since 22.06.2024, challan in the case has already been presented, culpability of the petitioner would be determined during trial and completion of trial will take long time, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall get his mobile number

registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition as it deems fit. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

November 06, 2024
sanjeev

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