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

CRM-M-268-2025(O&M)

Date of decision: 09.01.2025

Satish Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. J.K. Singla, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for setting aside impugned order dated 22.11.2024 (P-13) passed by learned Sub Divisional Magistrate, Phul in case titled as 'State Vs. Satish Kumar' arising out of FIR No. 87 dated 20.09.2017 under Section 7 (1) (a) (ii) of the Essential Commodities Act, 1955 and under Section 420 of the Indian Penal Code, 1860 (P-2), registered at Police Station Sadar Rampura, District Bathinda whereby application filed under Section 91 Cr.P.C. read with Section 272 (2) of Cr.P.C. and read with Section 165 of Indian Evidence Act by complainant/prosecution to place on record documents, was allowed.

2. Brief facts of the case are that above said FIR was registered against the petitioner with the allegation that he indulged in selling unlicensed fertilizers to the farmers. During trial, prosecution moved an application for placing on record certain documents and which was allowed by learned trial Court vide impugned order dated 22.11.2024. Hence, present petition.



3. Contends that application was filed at the belated stage as trial is at fag end and learned trial Court did not consider the factum of delay in production of documents at earlier point of time. Further contends that application is not legally maintainable as trial court failed to appreciate the fact that documents sought to be taken on record, were neither part of investigation; nor of final report. Also contends that documents in question were not produced during examination and cross examination of prosecution witnesses. While referring to Section 91 of Cr.P.C. read with Section 242(2) and Section 165 of Indian Evidence Act contends that prosecution has no right to file such application and/or to place on record the desired documents in a manner, it has been done in the present case.

4. Heard learned counsel for the petitioner and perused the paperbook.

5. It transpires that learned trial Court allowed the application vide impugned order dated 22.11.2024, while observing *inter alia* as under:-

“ 2. Heard on the application filed by prosecution under Section 91 read with Section 242(2) Cr.P.C. and read with Section 165 of Indian Evidence Act to place on record original documents i.e. Form J bearing No.5832,5833,5834,5889,5890, copy of dispatch register of ACEO, original letter No.972 dated 19.09.2017, original letter No.236/ADO/Enforcement dated 22.02.2017, original letter No.237/ADO(e) dated 22.09.2017, copy of dispatch register of Bathinda, letter No. AC/LDH-198 dated 12.10.2017 and letter No. AC/LDH-190 dated 10.10.2017.

3. In this application, it is submitted that this case is pending for leading prosecution evidence. The above mentioned documents have not been produced on record by investigating officer at the time of presentation of challan, which are required to be produced on file to establish the chain of custody of sample drawn and for the just decision of this case. It is averred that



these documents are required to be placed on file to prove the link evidence and no prejudice is going to be caused to accused if these documents will be allowed to be produced on file in the evidence of witnesses Dharampal Maurya and Dr. Gurditta Singh, Chief Agriculture Officer, as accused would be having due opportunity to cross-examine the said witnesses. Hence, this application.

6. *In this application, it is categorically submitted on behalf of State that documents as mentioned in this application are required to be produced on record to establish the chain of custody of sample drawn and to prove the link evidence. Moreover, prosecution wants to produce these documents on file in the evidence of witnesses Dharampal Maurya and Dr. Gurditta Singh who are yet to be examined as prosecution witnesses in this case. So, if opportunity to produce these documents on record be granted to prosecution no prejudice is going to be caused to the accused as accused would be having due opportunity to cross-examine these witnesses in respect of those documents. It is clear from the perusal of these documents, which have been produced on record along-with this application that the same are required to be taken on file for the just and proper decision of this case.*

7. *With these observations, the application under Section 91 Cr.P.C. moved by prosecution stands allowed. Let, summons to Dr. Gurditta Singh Chief Agriculture officer Bathinda and Dr. Dharampal Maurya Chief Agriculture officer, Bathinda be issued for 04.12.2024.*

Sd/-

Dated:22.11.2024

SDJM, Phul''

6. Perusal of the above extract reveals that sufficient reasons have been assigned by learned trial Court while passing the impugned order.

7. Apart that, it is discernible that documents to be taken on record i.e. J-forms, Despatch Register as well as Letters are public



documents; thus, as per Section 74 of Indian Evidence Act, 1872 (Section 74 of ‘Bharatiya Sakshya Adhiniyam, 2023’), these are *per se* admissible in evidence, unless proved otherwise.

8. Of course, the trial is at fag end and out of total 24 prosecution witnesses, 18 have already been examined; but learned counsel for the petitioner has failed to point out as to what prejudice shall be caused to him in case the desired documents are brought on record.

9. In view of the above, this Court is of the considered opinion that there is no irregularity or illegality committed by learned trial Court while passing the impugned order.

10. Consequently, there is no other option except to dismiss the present petition.

11. Ordered accordingly.

12. Needless to say that above observations be not construed as an expression of opinion on the merits of the case pending before learned trial Court, in any manner.

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

09.01.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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