

# Mohin Saili vs Department Of Food Safety, Government ... on 13 May, 2024

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
CRL.M.C. 3830/2024  
MOHIN SAILI

DEPARTMENT OF FOOD SAFETY, GOVERNMENT OF  
DELHI THROUGH FOOD SAFETY OFFICER & ORS.

CORAM:  
HON'BLE MR. JUSTICE VIKAS MAHAJAN

% 13.05.2024 CRL.M.A. 14607/2024 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

CRL.M.C. 3830/2024 & CRL.M.A. 14606/2024 (seeking interim bail)

3. The present petition has been filed against the impugned order dated 16.04.2019 whereby the present petitioner has been summoned by the Court of learned Additional Metropolitan Magistrate, Patiala House Courts, New Delhi to stand trial for an offence under Section 26/59 of Food Safety and Standards Act, 2006 (in short 'the Act').

4. The case of the respondent / Department in the complaint filed under the aforesaid provisions of the Act is that on 04.10.2017 complainant This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/05/2024 at 20:59:34 Hukum Singh, Food Safety Officer had taken a sample of "Raj Bhog", an article of food, for analysis from the Food Business Operator-cum-Unit Manager Sh. Parveen Kalotra from the premises of M/s Bikanervala Foods Pvt. Ltd., at their outlet at Preet Vihar, New Delhi-110092.

5. The Food Analyst report dated 12.10.2017 revealed that presence of extraneous matter i.e. turmeric in the said food article in contravention of Section 26(2)(ii) read with the definition of extraneous matter as defined under Section 3(1)(i) of the Food Safety & Standards Act, 2006.

6. Accordingly, the aforesaid complaint came to be filed in which the present petitioner has been arraigned as accused no. 2 as a nominee of the company for sales unit.

7. The learned counsel for the petitioner submits that on the day when the sample was taken, the petitioner was not in India, rather he was in US. Elaborating further, he submits that the petitioner was sent to US by his employer / company in connection with setting up of an outlet in US.

8. In support of his contention the learned counsel invites the attention of the Court to the extracts of the minutes of meeting of the Board of Directors of the company to contend that he was authorized to visit United States of behalf of the company. He refers to the copy of petitioner's passport bearing immigration stamps which indicates that the petitioner departed from India on 16.06.2017 and came back only on 11.12.2017.

9. He submits that the petitioner cannot be held responsible for any sub- standard article of food which was prepared during the period he was away to US.

10. He further submits that the petitioner was not even an incharge of the sales unit of Preet Vihar Outlet at the relevant time as he had already been This is a digitally signed order.

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11. In view of the above, issue notice. Learned APP for the State / Department accepts notice on behalf of respondent no. 1.

12. Let status report be filed before the next date.

13. On petitioner taking steps, issue notice to respondent nos. 2 and 3 by all permissible modes.

14. Considering the submissions made by the learned counsel for the petitioner, which prima facie appears to have substance, the petitioner is allowed to appear through his counsel before the learned Trial Court and join through VC from Australia where he is stated to be presently employed.

15. It is further directed that no coercive action be taken against the petitioner till the next date.

16. At this stage, the learned counsel for the petitioner, on instructions, further submits that NBWs have also been issued against the petitioner, however, there is nothing on record to show the issuance of NBWs. The petitioner is at liberty to file a separate application seeking stay of the NBWs, if the same have been issued.

17. Re-notify on 24.09.2024.

VIKAS MAHAJAN, J MAY 13, 2024 N.S. ASWAL This is a digitally signed order.

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