

Rajinder Kumar vs State Of Punjab on 19 December, 2023

Author: Mahabir Singh Sindhu

Bench: Mahabir Singh Sindhu

Neutral Citation No:=2023:PHHC:16

CRM-M-62456-2023

Neutral Citation: 2023:PHHC:163418

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62456-2023 (O&M)
Date of decision : 19.12.2023

Rajinder Kumar

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. S.P.S Sidhu, 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 1 of 6 Neutral Citation No:=2023:PHHC:163418 CRM-M-62456-2023 Neutral Citation: 2023:PHHC:163418 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 just to harass the petitioner and to take revenge from co-accused-Sandeep Singh Sandhu, who is working as Food Safety Officer in District 2 of 6 Neutral Citation No:=2023:PHHC:163418 CRM-M-62456-2023 Neutral Citation: 2023:PHHC:163418 Patiala. Further contends that above Food Safety Officer along with his colleagues made certain representations against the complainant Vijay Kumar, DHO, Patiala, and in order to take revenge, he has falsely implicated the petitioner along with co-accused-Sandeep Singh Sandhu. Learned counsel forcefully argued that actually the quantity of paneer seized by the raiding party on 06.11.2023 was only 100 Kgs., but the complainant has fabricated the record just to harass the petitioner while dragging in a totally false case. Again contended that from bare reading of the FIR as well as material collected by the police, no offence is made out against the petitioner

4. On the other hand, learned State counsel, while opposing the prayer, submitted that on 06.11.2023, a raid was conducted in the unit run by petitioner i.e. R.K.Chilling Centre, Patiala, and various items were seized on the spot. He further submits that after drawing requisite samples, one sample from each item was sent to the laboratory for analysis and report in this regard was received on 10.11.2023, wherein items were found to be sub-standard and unsafe for human consumption. He further submitted that petitioner in connivance with the co-accused-Sandeep Singh Sandhu misappropriated 400 Kgs. sub- standard paneer while forging the official records; hence, in order to find out the truth, custodial interrogation of the petitioner is very much necessary.

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, 3 of 6 Neutral Citation No:=2023:PHHC:163418

CRM-M-62456-2023 Neutral Citation: 2023:PHHC:163418 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 a matter of record 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:-

Sr. No	Code Sample	No. of Nature of Stock Article	Report
1	56740/VK/205/23	Paneer 100KG	Substandard
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, co-accused-Sandeep Singh Sandhu 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. 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) 4 of 6 Neutral Citation No:=2023:PHHC:163418 CRM-M-62456-2023 Neutral Citation: 2023:PHHC:163418 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 'A'.

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.

10. The contention raised on behalf of the petitioner that present FIR has been registered just to harass him and to take revenge from co-accused-Sandeep Singh Sandhu may at best be a plea of defense; hence, not helpful for seeking pre-arrest bail.

11. As on today, prima facie there is sufficient material available with the prosecution to indicate that on 06.11.2023, apart from other items, 500 Kgs. paneer was 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 co-accused-Sandeep Singh Sandhu in the premises 5 of 6 Neutral Citation No:=2023:PHHC:163418 CRM-M-62456-2023 Neutral Citation: 2023:PHHC:163418 of the petitioner; therefore, his complicity is apparent for misappropriation of 400 Kgs. paneer.

12. In view of the facts and circumstance discussed herein- above, custodial interrogation of the petitioner would be very much necessary to know the actual modus operandi adopted by him in connivance with co-accused-Sandeep Singh Sandhu.

13. As a result of the above discussion, there is no option except to dismiss the petition.

14. Ordered accordingly.

15. 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.

16. 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

Neutral Citation No