

CRM-M-50184-2022

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

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Date of decision: 31.10.2022

Sandeep Kumar and another

...Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sanjeev Kodan, Advocate,
for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioners seek anticipatory bail in case bearing FIR No.248 dated 29.08.2022, registered at Police Station Sadar Ratia, Fatehabad, District Fatehabad, under Section 420 IPC read with Section 7 of the Essential Commodities Act, Clauses 4, 5, 7 and 8(1) (2) of the Fertilizers Control Order, 1985, and 19 of the Terms and Conditions of Licence sub-clause (3) of Rule 09 of Insecticides Act, 1968, and sub-Rule (1) (2) and 10(4) III of Insecticide Rules, 1971, and Terms and Conditions of Licence of Clause 15 and Clause 16, 17 and 17(2) of Insecticide Rules, 1971.

Learned counsel for the petitioners contends that the petitioners were present at the spot, when the alleged raid had been conducted; that the investigating agency had taken into possession all the materials after conducting the raid even on the second time; that the petitioners are having a licence to sell and stock the insecticides and exhibiting the same for its sale and distribution and that the requisite licence was also produced before the raiding party. It is further submitted

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that no FIR under the Insecticides Act, can be registered as only the process of filing a complaint has been stipulated in the Act.

Learned counsel further contends that no offence under Section 420 IPC is made out against the petitioner and so far as recovery of bags of fertilizer, is concerned, the petitioners being agriculturalists, the same were kept for using it for the land owned by the father of petitioner No.2.

Notice of motion.

On the asking of this Court, Mr. Rupinder Singh Jhand, Addl. A. G. Haryana, accepts notice on behalf of the respondent-State, and opposes the grant of bail to the petitioner. He submits that a heavy quantity of fertilizers/pesticides and material relating to manufacturing of insecticides was found at the factory of the petitioners, and that three samples of 02 insecticides Monocrotophos 36% SL Paraquat Dichloride 24% SL were prepared and photography of lying material was also done. It is further submitted that subsequently, the factory was sealed for further proceedings, in the presence of its owners, CM Flying Squad and officers of Agriculture Department. On 26.08.2022, during further proceedings, list of material found in the factory was prepared and 03 portions of 02 Insecticides Thaimethoxam 30% FS Malathian 50% EC were prepared. After that list of ready insecticides was prepared which were - Monocrotophos 36% SL 01 litre packing 106 pieces 11 boxes; Thaimethoxam 30% FS 01 litre packing 115 pieces 12 boxes; Quinalphos 25% EC 01 litre packing 37 pieces 04 boxes; Emamectin Benzoate 1.9% EC 250 ml. 37 pieces 02 boxes; Malathion 50% EC 01 litre packing 25

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pieces 3 boxes; Tebuconazole 10% + Sulphur 65% WG packing 500 gm. 176 pieces 18 boxes; Emamectin Benzoate 5% SG packing 500 gm. 28 kilograms 04 boxes, which are manufactured by Hindustan Biotech Plot No.20 HSIIDC, Kulana, Rohtak and distributed by M/s Nutri Vision Agri Cem Pvt. Ltd., near Petrol Pump, Nagpur Road, Khunan; Paraquat Dichloride 24% SL 01 litre packing 37 pieces 04 boxes; Chlorpyrifos 50% + Cypermethrin 5% EC 01 litre packing 37 pieces 05 boxes, manufactured by Ixora Chemical 77, Sector-27-28, Industrial Area, Hisar - 125001 and distributed by M/s Nutri Vision Agri Cem Pvt. Ltd., near Petrol Pump, Nagpur Road, Khunan. The recovered fertilizer contained Potash Mobilizing bacteria (Nutri Potash) 01 litre packing 47 pieces 05 boxes, Humic + Fulvic Acid + Sea Weed (Power grow) 01 litre packing 47 pieces 05 boxes, Humic + Fulvic Acid + Sea Weed (Power grow), crystallized 10 kg. packing, 28 buckets from which 1.5 kg. was taken as sample and residue was 278.500 kg.; Natural Plant Growth Promotor (Nutri Power) 01 litre packing 50 pieces 05 boxes (of which no manufacturer was mentioned) distributed by M/s Nutri Vision Agri Cem Pvt. Ltd., near Petrol Pump, Nagpur Road, Khunan; Calcium Carbonate (MCAL - 101) for industrial use only 25 kg. packing 100 Kg. 04 bags were present and raw chemical for potash as told by owner packing 40 Kg. 320 Kg., 08 bags, Potash/Plant growth regulator bottles as told by owner without wrapper 01 litre packing 75 pieces 08 boxes were lying there. Above-said stocks were converted into sealed parcels and were signed by Quality Control Inspector, Fatehabad. Besides this, packing material for insecticide and fertilizer i.e. 04 drums of 200 litres packing, out of which 02 were empty and 02 were

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half filled with Growth Promotor/Weedicide Chemical (as told by factory owner), 9 plastic empty drums of 40 kg., 300 empty plastic bottles of 01 litre packing, 200 empty plastic bottles of 500 ml. packing, 180 empty plastic bottles of 250 ml. packing, 50 empty plastic bottles of 60 ml. packing, 400 cardboard boxes of different sizes, 420 printed wrappers of various insecticides/growth promoters, were also recovered. All the materials were taken to Police Station Sadar, Ratia, by loading in Tata 407 Canter No. HR-46A-5927 belonging to one Krishan son of Sheo Lal. Two Chemical mixing machines were present in the factory and those were sealed in the factory itself due to non-availability of vehicle. On 27.08.2022, during further proceedings, 05 samples were taken out of these insecticides - Quinalphos 25% EC 01 litre packing, Emamectin Benzoate 1.9% EC 250 ml, Tebuconazole 10% + Sulphur 65% WG packing 500 gm, Emamectin Benzoate 5% SG packing 500 gm, Chlorpyrifos 50% + Cypermethrin 50% EC 01 litre packing and 03 samples of fertilizers were taken and total 09 samples were taken and out of which 3 portions each were prepared. On 27.08.2022, 05 samples were deposited with Police Station Sadar, Ratia and 04 samples which were taken on 25.08.2022 and 26.08.2022 were handed over to owner of factory and 1 portion each of 03 samples which were taken by QCI, Fatehabad, were given in Police Station Sadar, Ratia. After that, parcels of samples were prepared and sealed with the seal of QCI. On 28.08.2022, both chemical mixing machines were taken to police station and besides this, 260 pieces of plastic bottles of 01 litre, 03 plastic bags, 50 empty plastic bottles of 500 ml., one bag containing 270 empty plastic bottles of 250 ml packing, one bag containing one measuring

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cylinder 25 ml, one measuring cylinder 50 ml, one measuring jar 1000 ml., printed wrapper and sticker mixed 1600 printed wrappers of various insecticide/growth promoter and 500 mixed bottle caps were sealed and taken to the police station.

Learned State counsel submits that recovery of two chemical mixing machines and empty bottles to be filled with pesticides and insecticides, shows that the petitioners were in the illegal process of manufacturing the insecticides and pesticides, which were to be supplied to the distributors and further sold to the farmers in the State.

I have heard the learned counsel for the parties.

There are serious allegations against the petitioners that they have indulged in the process of manufacturing the insecticides and pesticides illegally, which were ultimately to be sold to the farmers. The ingenuine insecticides and pesticides, developed by-passing the regulations and field trials with inferior formulations, create menace by harming soil fertility, human and cattle health and revenue loss to the gullible farmers.

Keeping in view the nature and gravity of the offence, this Court finds that the petitioners are required for custodial interrogation to ascertain the source of recovered large number of raw material (wrapper etc.).

Therefore, finding no merit in the present petition, the same is dismissed.

31.10.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No