
(1996) 01 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 21372-M of 1995

Jaswant Rai alias Fauji

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 03-01-1996

Acts Referred:

Citation : (1996) 1 AICLR 647 : (1996) 1 RCR(Criminal) 459

Hon'ble Judges : M.L.Koul, J

Advocate : A.R. Sidhu, P.K. Gupta, Advocates for appearing Parties

Judgement

M.L. Koul, J.

1. Precisely, the case set up by the petitioners and argued on their behalf before the Court is that the petitioners have been arrested within the provision of Section 7 of the Essential Commodities Act, as far back as on 23.9.1995 and the investigation has not been completed so far and the petitioners are languishing in the judicial lock up for no fault of their when the sentence provided for the offence is only one year. The learned Sessions Judge while disposing of the bail application of the petitioners has found that the petitioners were indulging in the sale of spurious fertilizer to the innocent farmers, the use of which is very dangerous and the same may cause heavy damage to the crops. No doubt, if the charges are proved against the present petitioners they are to be dealt with heavily under the law. However, due to nonapplication of mind by the Investigating Officer the investigation is not complete although more than four months have elapsed from the date the petitioners have been arrested. The petitioners are entitled to the benefit of Section 167(2) Cr.P.C. wherein the law provides that no Magistrate may authorise the detention of the accused person in custody beyond ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years. In other cases the Magistrate is not authorised to detain a person for more than sixty days unless cogent reasons for that are provided for and detention is required for legal purpose under law.

2. The learned Deputy Advocate General, could not show any law against the proposition of law as envisaged in the said provisions of the Cr.P.C. Therefore, the petitioners under the law are entitled to be released on bail because the challan in this case has not been filed against them for more than three months and no reasons have been provided by the State as to why they have been unable to file the challan against the petitioners in the competent Court of law. Hence, it is ordered that the petitioners be released on bail on their furnishing bail bonds and personal recognition bonds in the sum of Rs. 50,000/ each to the satisfaction of the Ilqa/Duty Magistrate, Moga.