

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63324-2024
Reserved on: 04.02.2025
Pronounced on: 14.02.2025

Rohit ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
294	28.08.2024	Bilaspur, District Yamuna Nagar	111(3), 316(2), 318(4), 336(3), 338, 340(2), 61(2) of BNS and 21 (4) of Mines and Minerals (Development and Regulation) Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State in CRM-M No.63677 of 2024, which reads as follows:

“3. That in this regard, it is submitted that a letter/complaint No. SR/Mining/Yamunanagar/3037 dated 23.08.2024 moved by the mining officer Mines and Geology Department, Yamuna Nagar for legal action regarding misuse of H.M.G.I.S. portal was received from the office of the Superintendent of Police, Yamuna Nagar in the police station. Thereupon vide letters no.47781 and 47782 dated 27-08-2024 record was sought from Director General Mines and Geology Department, Haryana and on the basis of above said complaint/letter the above mentioned F.I.R. No. 294, dt. 28-08-2024, U/s 318 (4) of B.N.S was registered at Police Station Bilaspur, Distt. Yamunanagar. In this regard, the relevant portion of the contents of F.I.R. have been reproduced as under:-
From Mining officer, Mines and Geology Department, Yamuna

Nagar to the Station House Officer, P.S. Charmant Yamuna Yamuna Nagar. Memo No/Mining/Yamuna Nagar/3077 dated 23.08.2024. Subject: regarding misuse of HMGIS Portal and taking legal action in this regard. On the subject cited above, you are hereby informed that in this office, through a whatsapp bearing No.91164xxxxx, a complaint was received that MRK Trading company village Jaitpur District Yamuna Nagar (Project number 230806001153, Mobile No.85699xxxxx Email ID-vishl/vnr/989@gmail.com (copy attached), have been misusing the portal and issuing wrong e-rawana (dispatch), notices and the details are as under: (copies of the e-rawana notices are attached.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. He further prays for bail on the grounds of parity with co-accused Yogesh Kumar.

5. The State's counsel opposes bail and refers to the supplementary reply.

6. It would be appropriate to refer to the following portions of the supplementary reply, which read as follows:

“4- Role of the petitioner - That with regard to the role of the petitioner in the present case, it is submitted that the petitioner was employed as an Accountant at Zimidar Stone Crusher situated at Village Kaliyana, District Charkhi Dadri and during that period the petitioner became acquainted with co-accused Harpreet Singh and the owners of other stone crushers and screening plants. The petitioner had close intimacy with main accused Kartar Singh and therefore, the petitioner used to send the data of required e-rawana to the co-accused Kartar Singh and thereafter, the said Kartar Singh used to create fictitious e-rawanas showing the purchase and sale of mining mineral without any actual transactions and thereafter used to send the e-rawana to the petitioner and the petitioner used to further sent the said fictitious e-rawanas to the other co-accused i.e. owners of stone crushers and screening plant.”

7. It shall be appropriate to mention para 4 and 5 of the bail petition, which reads as follows:

“4. That the petitioner has no concern and connection with the firms, misuse of portal and wrong preparation of e-way bill. There is no iota of evidence to connect the petitioner with the occurrence set out in the FIR in respect of misuse of government portal for preparation of e way bill.

5. That the petitioner is not owner, authorized person and any connection with the details of firm given in the FIR. The petitioner is employee of Zamidara Stone Crusher. The petitioner has no role to play into the incident.”

8. The explanation offered by the petitioner in the bail petition and as mentioned above is not prima facie satisfactory. There is sufficient prima facie evidence connecting

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the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 12 of the bail petition, the petitioner has been in custody since 16.09.2024. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, case of the petitioner falls on parity with co-accused and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner's complying with the following terms.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

15. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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16. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

14.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.