

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

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CRM-M-19593-2018 (O&M)

Date of decision: 26.09.2018

Sunny and others

...Petitioners

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Balbir Singh Jaswal, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

P.B. BAJANTHRI, J. (ORAL)

In the instant petition, petitioners have sought for grant of anticipatory bail to the petitioners in case FIR No. 23 dated 27.02.2018 under Sections 379, 353, 186, 506, 148, 149 IPC and Section 21 of Mining Act, 1957 registered at Police Station Verowal, District Tarn Taran.

2. Learned counsel for the petitioner submitted that FIR is not maintainable insofar as offences under Section 21 of the Mining Act, 1957.

Only complaint is maintainable. It was further submitted that petitioner was not involved in any other case.

3. Per contra, learned counsel for the respondent submitted that Hon'ble Supreme Court in the case of *State of NCT of Delhi versus Sanjay* reported in 2014 (10) JT 9 considered elaborately in respect of offence under Section 21 of Mining Act read with Section 379 and other Sections under IPC insofar as stealing of minerals.

4. Heard the learned counsel for the parties.

5. Undisputedly, petitioners are not licence holder for the purpose of extracting minerals under the Mining Act and Rules. Thus Mining Act is not attracted for the purpose of giving complaint and to act upon department's complaint against the petitioners. At the same time Section 379, 353, 186, 506, 148, 149 IPC could be proceeded against the petitioners as they were not licence holders for the purpose of extracting mines under the Mining Act and Rules. Supreme Court in *Sanjay's* cited (supra) held that FIR can be registered if a person is stealing or extracting mines illegally without licence. In view of the principle laid down in the aforesaid decision, petitioner has not made out a case for anticipatory bail.
6. Accordingly, petition stands dismissed.

26.09.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No