

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

CRM-M-37854-2017

Date of decision:-3.5.2018

Kulbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ramesh Sharma, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Kulbir Singh, an accused in FIR No.257 dated 28.8.2017, under Section 21 of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC, registered at Police Station Sidhwan Bet, District Ludhiana.

Briefly stated, the facts of the case as per prosecution story are that on 28.8.2017, a police party from Police Station Sidhwan Bet was going from Sidhwan Bet to village Khursaidpur, Bhaini Gujra, Acuwal

etc. in connection with patrolling and checking of bad elements; when the police party reached near Som Bridge, Sidhwan Bet, then from the right side of village Bhaini Gujra, a tractor trolley was spotted coming; on seeing the police party, the driver of that tractor trolley left the same on the side of the road and himself ran away towards the fields under cover of darkness; the trolley was found to be loaded with sand; no document with regard to ownership of tractor was found. Since the Government had imposed prohibition on taking out of sand, therefore, the police party took into possession the tractor along with trolley loaded with sand. It was observed that an offence under Section 379 ICP and 21 of Mines and Minerals (Development and Regulation) Act, 1957 had been committed by stealing sand from Satluj river. By sending ruqa, formal FIR was registered. Thereafter, the matter was investigated. The petitioner/accused was nominated during investigation of the case.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Ludhiana vide order dated 19.9.2017. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in

exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation. The petitioner is stated to be owner of the tractor trolley, which had been seized by the police party.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation to find as to from where and under what circumstances, the sand had been loaded with the tractor trolley. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

One more thing is that, while the petitioner was granted interim bail in this case vide order dated 9.10.2017, he had committed a similar offence again regarding which FIR No.324 dated 9.10.2017, under Section 21 of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC was registered with Police Station Sidhwan Bet. Such type of person cannot be relied upon to join investigation as and when directed and to appear in the Court on each and every date of hearing and not making any effort to influence the prosecution witnesses.

Thus finding no merit in the petition, the same stands dismissed.

3.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No