

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

**CRM-M No.14909 of 2019 (O&M)
Date of Decision: 05.04.2019**

Sukhvir Singh and others

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Vishal Munjal, Advocate for the petitioners.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab
for the respondent/State assisted by ASI Parvesh Kumar.

Mr. Dinesh Mahajan, Advocate for the complainant.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 438 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) for grant of pre-arrest bail to the petitioners in case FIR No.0009 dated 17.03.2019 (**P-1**), under Section 21 (1) of the Mines and Minerals (Development and Regulation) Act, 1957 (*for short 'Act'*), registered at Police Station Nangal Bhoor, District Pathankot.

It is contended by learned Counsel for the petitioners that in view of the fact that as per Section 22 of the Act, no cognizance can be taken by the Court. In support, he has cited a judgment of Single Bench of this Court tilted as “***Harmela Ram Versus State of Haryana***”, 2013(3) R.C.R. (Criminal) 141.

Further argued that petitioners have been falsely implicated as a counter-blast of FIR No.72 dated 07.12.2014 (P-2), under Section 304, IPC, registered at Police Station Sadar, Pathankot.

On the other hand, learned State Counsel opposed the present petition and prayed for dismissal of the same on the ground that FIR in question was registered on the basis of a complaint, made by Mining Officer, Pathankot and this is not only the first FIR, rather the petitioners are facing another FIR No.11 dated 19.03.2019, under Sections 379, 323, 148 and 149 of the Indian Penal Code, registered at Police Station Nangal Bhur.

Status Report by way of affidavit dated 04.04.2019 of ASI Parvesh Kumar, Police Station Nangal Bhoor, District Pathankot has also been filed. The same is taken on record. Copy supplied to the opposite side.

Heard learned Counsel for the parties and perused the record.

The argument on behalf of the petitioners that no cognizance can be taken by any Court in view of the bar contained under Section 22 of the Act is not acceptable as that stage has not been reached and the FIR in question has been registered by the Mining Officer, therefore, the contention is liable to be rejected.

Undisputedly, petitioners are facing two criminal cases including the present one and they have been specifically named in the FIRs. Despite the facts that FIR was registered on 17.03.2019 and the efforts made by the Investigating Officer, petitioners are still at large.

The aforesaid affidavit, filed by the ASI Parvesh Kumar, also reveals that even the JCB Machine, which was used for the commission of

offence, is also not traceable. It seems that petitioners are trying to hoodwink the process of the investigation, therefore, their custodial interrogation is required. As a result of the above discussion, no case for grant of anticipatory bail is made out.

Accordingly, the present petition is dismissed.

The above observations may not be construed as an expression of opinion on the merits of the case.

April 05, 2019
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>