

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

CRM-M No.52573 of 2018 (O&M)

Date of Decision: 11.04.2019

Vishal Bansal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Namit Khurana, Advocate for the petitioner.

Mr. Yashwinder Singh, Deputy Advocate General, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.154 dated 29.08.2018, under Section 21 (4) (1) of the Mines and Minerals Act, 1957 (*for short 'Act of 1957'*) and Section 379 of the Indian Penal Code, 1860, registered at Police Station Khizrabad, District Yamuna Nagar.

As per the allegations in the FIR, on 30.05.2018 at about 04:00 P.M., Om Dutt Sharma, Mining Inspector, Yamuna Nagar along with Narain Singh, Balbir Singh, Mining Guards and H.C. Pardeep visited in Village Tajewala to inspect the spot and found that on the eastern side of the Village, in a field, recent signs of ditches measuring 160 x 110 x 9 feet width were found. After enquiry, the name of the owner was disclosed to be Vishal Bansal (petitioner). Thereafter, the FIR in question was registered.

This Court, on 22.01.2019, passed the following order:-

“ *Learned State Counsel seeks time to file detailed*

affidavit of S.P., Yamuna Nagar regarding the details of FIRs, registered in the District Yamuna Nagar, for illegal mining under the provisions of Mines and Minerals (Development and Regulation), Act, 1957 w.e.f. 01.01.2018 till 31.12.2018.

Adjourned to 28.01.2019 for further consideration.

In the meanwhile, the petitioner is directed to join the investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds to his satisfaction. The petitioner is also directed to abide by all the conditions as envisaged under Section 438(2) Cr.P.C. ”

It is contended by learned Counsel for the petitioner that in pursuance of the above order, petitioner has joined the investigation and his custodial interrogation is no longer required.

The aforesaid factual position is duly acknowledged by learned State Counsel, on instructions from ASI Jagmal Singh.

In view of above, interim order dated 22.01.2019 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

It is made clear that the petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

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

Before parting with this order, it is necessary to record that the details of all criminal cases registered for violation of the provisions of the Act of 1957 within the jurisdiction of District Yamuna Nagar w.e.f. 01.01.2011 upto date were called from the State of Haryana and an affidavit dated 09.04.2019 of Sh. Ashish Chaudhary, Deputy Superintendent of

Police, Bilaspur (Yamuna Nagar) has been filed. The same is taken on record. Copy supplied to the opposite side.

Perusal of the affidavit reveals that right from 25.03.2011 uptill 31.03.2019, total 487 criminal cases have been registered for breach of the provisions of Act of 1957 and out of those, only in 06 cases, the conviction have been recorded. It is quite distressing that in 271 cases, accused have been acquitted and this shows the lack of interest by the prosecution agency. In 22 cases, Cancellation Reports were submitted and there are 33 cases, where Untrace Reports have been submitted by the police.

A copy of this order be brought to the notice of Chief Secretary, Govt. of Haryana as well as Director General of Police, Haryana to take a serious view in the matter regarding the illegal mining in the district of Yamuna Nagar as well as the lack of interest shown by the police as well as by the Mining official(s)/officer(s). It will also be brought to the notice of Secretary, Ministry of Mines, Government of India, New Delhi for necessary action.

Let the matter be examined thoroughly and necessary action be initiated against the erring official(s)/officer(s) in view of the above factual position and action taken report be submitted to this Court within a period of three months from the date of receipt of certified copy of this order.

Disposed off accordingly.

April 11, 2019

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**(MAHABIR SINGH SINDHU)
JUDGE**

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