

204

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

CRM-M No. 16909 of 2020
Date of Decision: 19.08.2020

Saudagar Singh

-Petitioner

Versus

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. G.S. Brar, Advocate,
for the petitioner.

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

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of anticipatory bail in case bearing FIR No.172 dated 01.07.2018 registered under Section 21 of Mines and Minerals (Regulation of Development) Act, 1957 and under Section 379 IPC at Police Station Phillaur, District Jalandhar Rural.

FIR was registered on the basis of secret information against unknown persons, who were involved in illegal mining of sand through Poclain machine.

Recovery memo shows that the persons present at

the spot told that the Poclain machine belongs to petitioner and one tractor Sonilka No.PB 37 C-9559 along with trolley filled with sand belongs to Resham Singh. Second tractor Sonalika along with trolley filled with sand belongs to Mukhtiar Singh.

The Additional Sessions Judge, Jalandhar while declining the anticipatory bail has observed in para no.6 that the Poclain machine used for digging the sand and tractor trolley filled with sand belongs to Mukhtiar Singh.

Learned State counsel on instructions from ASI Roop Singh states that it is the petitioner who has got the machine released on Superdari from the Court.

Timing of registration of FIR vis-a-vis preparation of recovery memo would be arguable as the number of FIR is appearing at the top of recovery memo.

Learned counsel for the petitioner by referring to **Harmela Ram Vs. State of Haryana, 2013(3) RCR (Criminal) 141** and **Jagjit Singh Vs. State of Punjab, 2014(3) RCR (Criminal) 562** contends that the Court can take cognizance of the offence only on the complaint in writing made by a person authorized in this behalf, otherwise, no FIR can be lodged.

Learned counsel further submitted that if the offence is only under Section 21 of the Act, ratio of para No.68 of **State of NCT of Delhi vs. Sanjay, 2014(4) R.C.R. (Criminal) 211**

would apply.

FIR is silent about registration number, make and other features of the vehicle involved in the offence.

In view of above, the petition is allowed. Petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 22.08.2020 and in the event of his arrest, he shall be released on anticipatory bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;
- ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

August 19, 2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No