

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

**CRM-M No.18397 of 2020 (O&M)
Date of Decision: 28.07.2020**

Harmeet Chand

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Jasdev Singh Mehndiratta, Advocate
for the applicant/petitioner.

Mr. Ajaypal Singh Gill, DAG, Punjab
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case bearing FIR No.50 dated 25.04.2019, under Sections 4(1) and 21(1) of the Mines and Mineral (Regulations of Development) Act, 1957, registered at Police Station Nurpur Bedi, District Rupnagar.

This Court, while issuing notice of motion on 13.07.2020, passed the following order:-

“ Inter-alia contends that the land- “Gair Mumkin Choe” (noncultivable rivulet) was purchased by the petitioner way-back in 2012 and he is ready to file an undertaking in the shape of an affidavit that in future there would be no illegal mining from the land in question by anyone.

Notice of motion for 28.07.2020.

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 clarified that in case the necessary affidavit is not filed before the next date of hearing, the interim order shall stand vacated. ”

Contentends that in terms of the above order, petitioner has joined the investigation. Also submitted that in pursuance of the above order, affidavit of the petitioner has been filed along with CRM No.17068 of 2020.

For the reasons stated in CRM No.17068 of 2020, the same is allowed subject to all just exceptions. Accompanied affidavit is taken on record. Para 2 of the affidavit reads as under:-

“That the deponent undertakes that till the time he remains owner of the land, which is subject matter of the present FIR, no illegal mining shall take place in it. The deponent shall make necessary arrangements to ensure that no one does illegal mining in the land which is subject matter of the present FIR, till the time, he remains owner of the same.”

Since petitioner has furnished categoric undertaking that there shall be no illegal mining in the land in question till he remains owner of the same and learned State Counsel, on instructions from ASI Deepak Kumar, has acknowledged that in terms of order dated 13.07.2020, petitioner has joined the investigation and his custodial interrogation is not required, therefore, interim order dated 13.07.2020 is made absolute subject to the

conditions as envisaged under Section 438(2) Cr.P.C.

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

Disposed off accordingly.

Affidavit, filed by the petitioner, may not be treated as prejudicial to his rights during proceedings before learned trial Court.

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

July 28, 2020
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No