

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201)

CRM-M-29986 of 2020

Date of Decision: 16.11.2020

Harwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Mansur Ali, Advocate, for the petitioner.
Mr. Hitan Nehra, Addl. Advocate General, Punjab

Amol Rattan Singh, J. (Oral)

All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

On September 28, 2020, the following order had been passed:

“By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.135, dated 28.8.2020, having been registered at Police Station Kiratpur Sahib, District Rupnagar, alleging therein the commission of offences punishable under Section 379 of the IPC, as also under Sections 21(1) and 4(1) of the Mines and Minerals (Regulation of Development Act, 1957.

Learned counsel for the petitioner points to the fact that though the petitioners' licence/permit had expired in June, 2019, he still filed a return (copy Annexure P-3) on 19.2.2019, showing a balance of 183 metric tons of minerals with him.

He therefore submits that, firstly, even the report of the Mining Officer is wholly misconceived and further, the police, without even making any enquiry, straightway registered an FIR, which in any case is not maintainable.

Notice of motion.

Mr.Harbir Sandhu, learned AAG, Punjab, accepts notice at the asking of the court.

He submits that as stated in the FIR, the petitioner did not have documents for the minerals and that in fact his licence/permit had expired in the year 2019.

Considering what has been pointed to by learned counsel for the petitioner hereinabove, without making any final comment on the merits of the case, the petitioner is directed to join investigation within one week and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.

Adjourned to 16.11.2020.

In the meanwhile, the Mining Officer concerned is directed to file a reply to the petition, with a gazetted police officer also to file a reply.”

Though a reply of the mining officer has been filed, however, today, learned State counsel, on instructions, submits that the petitioner in this petition has joined investigation on 01.10.2020, and there being no recovery effected from him, with the entire material already seized by the police earlier, presently at least his custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the custodial interrogation of the petitioner, this petition has in fact

been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 7 days notice before arrest, duly shown to be served upon him.

16.11.2020
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes

Whether reportable: No