

CRM-M No.30216 of 2020 (O&M)
Date of Decision : 29.09.2020

Jaspal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGHPresent : Mrs. Kanwal S. Walia, Advocate
for the petitioner.

Mr. S.P.S. Tinna, Additional AG, Punjab.

FATEH DEEP SINGH, J (ORAL)

The petitioner-Jaspal has come up in this first anticipatory bail under Section 438 Cr.P.C in case FIR No.116, dated 01.09.2020, under Section 379 IPC, 1860 and Sections 21 (1), 4(1) of Mines and Minerals Act (Regulation of Development) Act, 1957 registered at Police Station Rahon, District SBS Nagar, Punjab.

The brief allegations are that on 01st September, 2020, the police apprehended tractor-trolley bearing Registration No. PB 32 P 4348 carrying the sand. The driver disclosed his name as Manpreet Singh @ Gagi. The co-accused driver disclosed that he was carrying this sand on the asking of Jaspal, Contractor, the present petitioner.

Learned counsel for the petitioner *inter alia* contends that petitioner was neither apprehended at the spot nor is the owner of the vehicle in question nor there is any evidence to connect him with the commission of the offence except the statement of the driver which is inadmissible.

Learned State counsel on instructions from ASI Hans Raj does not displace the said fact but has strongly opposed the bail on the grounds that sand mining mafia needs to be discouraged and thus sought dismissal of the bail.

Evidently, only a single trolley of sand has been recovered and that too from its driver Manpreet Singh @ Gagi, co-accused non-applicant which has been fairly conceded by the learned State counsel at the bar and that the only semblance of evidence against the petitioner is that he has been named by the driver.

In light of the above, the very legality and acceptability of such a piece of evidence on the statement of co-accused is a matter which can only be adjudicated at the time of trial. No useful purpose would be served by sending the petitioner in custody.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called

for and shall also abide by the conditions specified under section 438 (2) Cr. P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. Presently, the petitioner is directed to join the investigation within 15 days from the receipt of certified copy of this order.

(FATEH DEEP SINGH)
JUDGE

29.09.2020
Manpreet

Whether speaking/reasoned	Yes
Whether reportable	No