

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120

CRM-M-25890 of 2021
Date of decision :-16.08.2021

Giriraj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sumit Sangwan, Advocate for the petitioner.

SUVIR SEHGAL, J.

Heard through video conferencing.

CRM-23639-2021

For the reasons given in the application, it is allowed.

Copy of FIR No.175 dated 13.07.2021 is taken on record as
Annexure P-7.**Main Case**

Vide the instant petition filed under Section 482 of the Code of Criminal Procedure, the petitioner has assailed the order dated 26.05.2021, Annexure P-1, passed by the learned Additional Sessions Judge, Charkhi Dadri, dismissing the revision filed by the petitioner impugning order dated 09.04.2021, Annexure P-2, passed by JMIC, Charkhi Dadri, whereby application filed by the petitioner under Section 451 of Cr.P.C. for release of his vehicle on 'sapurdhari' has been declined.

Counsel for the petitioner has contended that his truck bearing registration No.RJ-13GB-6510 was seized by the inspecting team of the Mining Department after it was stopped for checking for alleged illegal mining/illegal transportation on 12.03.2021 as it did not possess any valid bill. The seizure of the vehicle was done under Rule 102/104 of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules,

2012. The petitioner filed an application for the release of the vehicle on 'sapurdhari', which has been dismissed by the learned JMIC on 09.04.2021, Annexure P-2, which has been upheld vide impugned order, Annexure P-1. Counsel contends that the revision petition has been rejected on the ground that the power under Section 451 and 457 Cr.P.C. to release the vehicle on 'sapurdhari' cannot be invoked as neither any FIR has been registered, nor complaint in writing has been made by the Mining Officer. Counsel submits that during the pendency of the instant petition, FIR, Annexure P-7, has been registered on 13.07.2021 under Section 21 of the Mines and Minerals (Regulation and Development) Act, 1957, and Section 379, IPC, 1860, at Police Station DadriSadar, District Charkhi Dadri.

Notice of motion.

On asking of the Court, Mr. Kuldeep Tiwari, Addl. A.G., Haryana, accepts notice on behalf of the respondent-State.

Counsel for the parties have been heard.

As the primary ground on which the revision has been dismissed is no longer in existence because an FIR, Annexure P-7, has been registered on the written complaint of the Mining Officer, Office of Mines and Geology Department, Charkhi Dadri, the impugned order cannot be sustained and deserves to be set aside.

Consequently, impugned order dated 26.05.2021, Annexure P-1, passed by the learned Additional Sessions Judge is set aside and the matter is remanded back to the Revisional Court to decide it afresh on merits after hearing the parties.

Petition is disposed of.

16.08.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No