

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

CRM-M-26822-2020 (O&M)

Date of decision: 11.02.2021

Sikander Singh

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr. Vijay Lath, Advocate for the petitioner.

Mr. J.S. Ghuman, DAG, Punjab.

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**H.S. MADAAN, J. (Oral)**

This petition for pre-arrest bail has been filed by petitioner Sikander Singh, an accused in FIR No.123 dated 15.08.2020, for offences under Sections 21(1) and 4(1) of the Mines and Minerals (Regulation of Development) Act, 1957, registered with Police Station Sadar, Rupnagar.

Briefly stated the facts of the case as per prosecution story are that, on 14.08.2020, a police party from Police Station Sadar, Rupnagar headed by ASI Jasmer Singh accompanied by Halqa Patwari had gone to Village Panjola in pursuance of report submitted by Junior Engineer-cum-District Mining Officer and observed that mining had been done in the agricultural land belonging to petitioner-accused Sikander Singh; one Jagtar Singh had also submitted an application against petitioner-accused Sikander Singh; formal FIR in the matter was

recorded.

Apprehending his arrest in this case, petitioner/accused had approached the Courts of Sessions at Rupnagar by moving an application for grant of pre-arrest bail. His such application was assigned to Addl. Sessions Judge, Rupnagar, who vide order dated 24.08.2020, dismissed the same. Feeling aggrieved, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

In the instant case, as the parties were at variance on certain points inasmuch as according to the petitioner he had not removed any soil/mineral from his land and copies of revenue records and photographs were placed on record in support of that contention, whereas the version of the State was otherwise. For getting a clear picture of the factual position, Tehsildar, District Rupnagar, was directed to go to the spot and carry out necessary demarcation of the land in question and then to submit report as to whether some crops are standing over the said land or soil/minerals have been dug-up from there, if so the depth thereof. He was directed to take photographs of the spot and then to submit a report to this Court. The Tehsildar concerned was issued a direction to issue prior notice to the petitioner and the Investigating Officer, so that they may remain present at the spot, at the relevant time. Report from the Tehsildar concerned has been received along with annexures in the form

of Aks-shajra and photographs of the land in question. In terms of the report in khasra No.31//1/2(5-8) wheat crop has been sown and in khasra No.31//11/2(1-13) mustard has been sown and with regard to mining, khasra No.31//1/2(5-8) was 4 feet down as compared to khasra No.31//1/1 and 31//10/2; in khasra No.31//1/2(5-8), it seems that old mining has taken place.

Thus, from the report submitted by Tehsildar, Rupnagar, it does not come out that fresh mining had been done from the agricultural land of the petitioner. Even otherwise, learned State counsel, on instructions from ASI Kanwarj Raj has stated that since the petitioner has joined the investigation in terms of the direction issued by this Court and has been released on interim bail, his custodial interrogation is not required.

Under the circumstances, I find that the petition deserves to be accepted. Accordingly, the same is allowed. The interim bail granted to the petitioner, vide order dated 17.09.2020 is made absolute, subject to the following conditions:-

- 1.that the petitioner shall make himself available for investigation by a police officer as and when required;
- 2.that he 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 and;
- 3.that he shall not leave India without prior permission of the Court.
- 4.that he shall surrender his passport before the Investigating Officer and if he is not having passport, then, shall file the affidavit in that regard.

In case, the petitioner violates any terms & conditions, on

which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

11.02.2021

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(H.S. MADAAN)

JUDGE

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |