

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

208

**CRM-M-37023-2020
Date of decision: 05.02.2021**

Mahinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Neeraj Madaan, Advocate
for the petitioner.

Mr. M.S. Nagra, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C") for grant of anticipatory bail in case FIR No.219 dated 20.10.2020 registered under Section 379 of the Indian Penal Code, 1860 and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 in Police Station Sadar Jalalabad, District Fazilka.

While issuing notice of motion on 11.11.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.219 dated 20.10.2020 registered under Section 379 of the Indian Penal Code, 1860 and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 in

Police Station Sadar Jalalabad, District Fazilka.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. FIR was registered on the basis of secret information that the petitioner is habitual of selling illegally mined sand and if raid is conducted he could be caught with tractor-trolley loaded with the same. The petitioner was not present on the spot. The petitioner was not involved in any illegal mining of sand. No case of illegal mining of sand is made out against the petitioner. The tractor-trolley were illegally seized by the police. There is no incriminating material against the petitioner. The petitioner is not involved in any other case of illegal mining. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to order of issuance of notice of motion and supply of advance copy, Mr. Rana Harjasdeep, DAG, Punjab appeared and accepted notice on behalf of the respondent-State.

In the course of hearing it was noticed that despite orders passed by this Court for taking appropriate action to prevent escape of the offenders during raids conducted on the basis of secret information and also for taking of the photographs in case of illegal mining, the offender was alleged to have escaped and no photographs were taken on the spot.

As per the directions issued during the course of hearing, Mr. Harjit Singh, Senior Superintendent of Police, Fazilka has joined before this Court through video conferencing. He has submitted that the matter will be looked into and appropriate steps will be taken for compliance with the directions issued by the Court in cases of illegal mining.

While conceding that the petitioner is not involved in any other case of illegal mining, learned State Counsel seeks time to file reply with relevant documents and requisite details.

Adjourned to 05.02.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall not be entitled to the protection of interim bail allowed to him."

The petition has been opposed by the learned State

Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has, while reiterating submissions made on 11.11.2020, submitted that in compliance with order dated 11.11.2020, the petitioner has joined the investigation.

Learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Chander Shekhar, acknowledged that in compliance with order dated 11.11.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 11.11.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if

and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

05.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No