

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-39946-2020 (O&M)
Date of Decision:-23.8.2021

Rakesh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Chanderhas Yadav, Advocate for the petitioner.

Ms. Sheenu Sura, DAG, Haryana,
assisted by SI Narender.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No.405 dated 11.11.2020 under Sections 188/379 IPC and under Sections 4(1)/4(1)(A) of Mines and Minerals (Regulation of Development) Act, 1957 at Police Station Kanina, District Mahendergarh.
2. At the time of issuance of notice of motion on 02.12.2020, the following order was passed :-

“Learned counsel for the petitioner contends that the petitioner is a Sarpanch of Village Karira, Tehsil Kanina, District Mahendergarh and that in the year 2019 on account of some development work in the village i.e. construction of pucca streets, some soil had been

excavated i.e. about 30-35 trolley loads, so as to be used for the said development work but somehow a penalty of ₹10,000/- apart from royalty of ₹2000/- was imposed, which the petitioner had paid.

It has been submitted that subsequently on account of political rivalry a writ petition was filed in this Court wherein allegations of illegal mining were raised against the petitioner and the said matter was got inquired into by the High Court by way of deputing Civil Judge, Senior Division, Kanina, District Mahendergarh who visited the spot and in view of his report the civil writ petition came to be dismissed.

It has been submitted that, however, during the pendency of the aforesaid writ petition the instant FIR came to be lodged, which is infact a misuse of process of law inasmuch as while a penalty of ₹1,00,373/- was imposed vide order dated 9.11.2020, the FIR in question came to be lodged on 11.11.2020 i.e. within 2 days of order dated 9.11.2020, which is infact in contravention of Rule 104 of Mines and Minerals (Development and Regulation) Rules, 2015.

Notice of motion for **4.5.2021**.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.”

3. Learned State counsel, upon instructions from SI Narender, has informed that
pursuant to interim directions, the petitioner has since joined the

investigation and that the State is going to file cancellation report in the instant case.

4. In view of the aforestated position, wherein the petitioner is stated to have joined investigation and in any case the State is contemplating to file a cancellation report, his custodial interrogation is not warranted.
5. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 02.12.2020 are made absolute.

23.8.2021

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No