

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(235)

CRM-M No.44685 of 2021
Date of Decision : 15.12.2021

Sucha Singh and another

....Petitioners

Versus

State of Punjab

.....Respondent

(Through Video Conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Ms. Purva Gupta, Advocate for
Mr. Sherry K. Singla, Advocate
for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

The petitioners are seeking anticipatory bail in FIR No.48 dated 10.04.2021 under Sections 21(1), 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 registered at Police Station Nangal, District Rupnagar.

Learned counsel for the petitioners contends that the petitioners have joined investigation in terms of order passed by this Court dated 27.10.2021. Order dated 27.10.2021 is as under:-

“Present is the 2nd petition filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioners in respect of FIR No. 48, dated 10.04.2021, registered under Sections 21(1), 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 (hereinafter referred to as '1957

Act') at Police Station Nangal, District Rupnagar.

Learned counsel for the petitioners submits that the allegation against the petitioners is that they were extracting mines and minerals, which is in contravention of law as envisaged under 1957 Act. Learned counsel for the petitioners further submits that the said allegation has been alleged against the petitioners without any verification and without appreciating the actual facts that the land, where the alleged mining was done, does not belong to the petitioners and no equipment being owned by the petitioners has ever been recovered from the site. Learned counsel for the petitioners argues that in the present case, the action is being taken against the petitioners under the special act i.e. Mines and Minerals (Regulation of Development) Act, 1957 and the said action can only be taken on the asking of the competent authority, which fact is missing in the present case.

Learned counsel for the petitioners submits that petitioners are ready to join the investigation and cooperate and as nothing is to be recovered from the petitioners as of now, they be extended the benefit of anticipatory bail.

Notice of motion.

Mr. Kirat Singh Sidhu, learned Deputy Advocate General, Punjab, who is present in Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel submits that the present FIR has been registered on the asking of the department of Mines and Minerals, which department had reached the conclusion that the petitioners were extracting mines and minerals from a particular land in contravention of 1957 Act. Learned State counsel submits that the machinery and other equipments used for extraction are yet to be recovered from the petitioners but concedes that there is nothing on record as of now to show that the petitioners were found at the spot.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that the land in question where extraction of minerals and mining was being undertaken, is not being owned by the petitioners and no machinery belonging to the petitioners, allegedly being used for extraction of the mines and minerals has been recovered from the site and the allegations alleged against the petitioners in the FIR are yet to be proved, the purpose of investigation will be achieved, in case petitioners are directed to join the investigation and cooperate. Petitioners are directed to join the investigation forthwith.

In the event of their arrest, they shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on their

furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

- i) That they shall make himself available for interrogation by the police officer as and when required.
- ii) That they 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 the said facts to the Court or to any police officer.
- iii) That they shall not leave India without prior permission of the Court.
- iv) That they shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 14.12.2021.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed. ”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Balram states that in terms of the order of this Court reproduced before, the petitioners have joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioners undertake that petitioners will join investigation and also cooperate with the investigating agency in case they are required for the same in future as well.

In view of the above, the order dated 27.10.2021 granting interim bail to the petitioners is made absolute.

However, the petitioners shall abide by the conditions stipulated under Section 438(2) Cr.P.C. They shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioners are required for the investigation but

are not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

15.12.2021
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*
Whether reportable? *No*