

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

209-2

CRM-M-44202-2020

Date of decision: 11.02.2021

Mohan Lal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Naveen Batra, Advocate
for the petitioner.

Mr. P.S. Walia, 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 the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.157 dated 19.10.2020 registered under Sections 21(1) and 4(1) of the Mines and Mineral (Development & Regulation) Act, 1957 at Police Station Anandpur Sahib, District Rupnagar.

While issuing notice of motion on 29.12.2020, Co-ordinate Bench of 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:-

"Instant petition has been filed under Section 438 Cr.P.C seeking concession of anticipatory bail to the petitioner in FIR No.157 dated 19.10.2020 under sections 21(1), 4(1) of Mines & Mineral (Development &

Regulation) Act, registered at Police Station, Anandpur Sahib, District Rupnagar.

Counsel for the petitioner has contended that the occurrence in question has taken place on 19.1.2020 whereas the FIR was registered after a gap of about 9 months i.e. on 19.10.2020. Counsel has vehemently contended that there is no identity established of the petitioners and the allegations in the FIR are highly motivated and false on the face of it.

Notice of motion.

On the asking of the Court, Mr. V.G. Jauhar learned Sr. D.A.G., Punjab accepts notice on behalf of respondent State and waives service.

List on 11.2.2021 along with CRM-M-44197-2020.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

(i) That the petitioner shall make himself available for interrogation by a police officer as and when required.

(ii) That the petitioner 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.

(iii) That the petitioner shall not leave India without the previous permission of the court."

The petition has been opposed by the respondent-State.

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 the submissions made on 29.12.2020, submitted that in compliance with order dated 29.12.2020, the petitioner has joined the investigation.

On the other hand, 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 and

the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Raj Kumar, acknowledged that in compliance with order dated 29.12.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation 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 29.12.2020 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.

11.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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