

CRM-M-51514-2021

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

(101)

CRM-M-51514-2021.
Date of Decision:-10.12.2021.

Dharmender Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

VIKAS BAHL, J. (Oral)

This is the first petition under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.431 dated 24.10.2021 under Section 188 of IPC and Section 21 (1) of the Mines and Minerals (Regulation of Development Act), 1957, registered at Police Station Kanina, District Mahendergarh (Haryana).

Learned counsel for the petitioner has submitted that in the present case, the present FIR has been registered in violation of Rule 106 of the Haryana Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 (for short 'the Rules'), inasmuch as the FIR could have been registered only within a period of 03 months from the date on which the said offence was alleged to have been committed. It is submitted that as per the FIR, the alleged offence has been

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committed on 09.07.2021 whereas, the FIR has been registered on 24.10.2021 i.e. beyond the period of 03 months. It is further submitted that in the present case, the petitioner had a E-rawaana pass valid upto 10.07.2021 and has further submitted that any rate, the recovery has already been effected from the petitioner and with respect to the entire dispute, the petitioner has also filed an appeal before the Director, Mines and Geology, Haryana, for challenging the seizure order and the said appeal is pending.

On advance notice, Mr. Manish Dadwal, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and on instructions from PSI Tapinder, he is fully prepared in the matter to assist the Court. He has opposed the present application for grant of anticipatory bail to the petitioner and has submitted that the offence committed by the petitioner is the second offence in which the truck of the petitioner is involved. It is submitted that earlier also on 19.11.2020, the truck of the petitioner was found loaded with illegal mines and it is only after the deposit of the amount of royalty and penalty to the tune of Rs.2,39,350/-, that the said truck was released on 31.12.2020. It is also submitted that the complaint in the present case was given on 01.10.2021 and the Department could not be faulted in case the FIR is registered after a delay of 14 days i.e., on 24.10.2021.

Keeping in view the above-said facts and circumstances moreso, that as per Rule 106 of the Rules, cognizance is to be taken within a period of 03 months from the date on which the offence is alleged to have been committed and since the FIR in the present case has been registered after a period of 03 months, thus, it would be a matter of debate as to whether the FIR has been registered in violation of Rule 106 of the Rules or

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not and also the fact that in the present case, the recovery has already been effected from the petitioner inasmuch as the truck in question has been seized and the material is lying with the Department and the entire issue is also pending adjudication before the Director, Mines and Geology Department, Haryana, before whom the petitioner has filed the appeal, thus, the present petition for grant of anticipatory bail deserves to be allowed.

Accordingly, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail on his furnishing bail/surety bonds to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so, by the Investigating Officer/Investigating Officer.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

December 10, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No