

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

104

CRM-M-35365-2022

Date of decision: 09.08.2022

JASBIR SINGH ALIAS KAKU BABA

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. Ravi Singh, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C., wherein the petitioner seeks the indulgence of this court for grant of anticipatory bail.

2. In FIR bearing No.54 of 29.07.2022, registered at Police Station Sadar Rupnagar, offences constituted under Sections 21(1) and 4(1) of the Mines and Minerals (Development, and, Regulation) Act, 1957, are embodied.

3. From the land owned and possessed by the present bail petitioner alongwith other co-owners, he is alleged to ensure illicit excavations of soil, and, resulting in its being loaded on a tipper bearing No. PB-13AL-1884.

4. The provisions of the Mines and Mineral (Development and Regulation) Act, prohibit the excavation, and, also transportations of any minor minerals including soil/earth from the land owned by the

accused concerned, unless a valid licence by the Competent Authority becomes granted to the land owner concerned.

5. However, as above stated, no valid licence for the above purpose ever became granted to the present bail petitioner. Resultantly, the excavation of the minor minerals, inasmuch as, of mud/soil from the land owned/possessed by the present petitioner becomes an illicit, or, illegal activity, but since it is stated, at the bar, by the learned State counsel, on instructions given to him by ASI Baljinder Singh, that the above tipper involved in the occurrence, has been impounded, but yet he submits that the JCB deployed for the above purpose has not yet been ensured to be recovered, at the instance of the present bail petitioner, to the investigating officer concerned.

6. If so, the present bail petitioner is directed to as a pre-condition for his becoming admitted to pre-arrest bail hence ensure that he causes the recovery of the JCB deployed, for the prohibited activity, to the investigating officer concerned. In consequence, this court becomes constrained to admit him to pre-arrest bail.

7. Moreover, also, when at this stage no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being enlarged on anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with prosecution evidence, thereupon too, it is not deemed fit to decline the relief of pre-arrest bail to the petitioner.

8. In aftermath, with the condition (supra), the present petition is allowed, and, the bail applicant-petitioner is admitted to anticipatory bail, and, in the event of his arrest, he may not be arrested

by the investigating officer concerned, but subject to the bail applicant-petitioner furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer. Furthermore, the bail applicant-petitioner shall also give an undertaking before the arresting officer, that as and when he is summoned through a written Hukamnama, he shall ensure his rendering his cooperation to the investigating officer. Moreover, he shall also give an undertaking that he shall not influence the prosecution witnesses, nor shall tamper with the prosecution evidence.

9. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from FIR (supra).

09.08.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

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