

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

205

CRM-M-48671 of 2021

Date of Decision:-24.1.2022

Gurbachan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Abhishek Khullar, Advocate for
Mr. Aashish Bishnoi, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

(Proceedings conducted through video conferencing)

HARSIMRAN SINGH SETHI J.(Oral)

The petitioner is seeking anticipatory bail in FIR No.79 dated 2.8.2021, under Section 379 IPC and Section 21(3) of Mines & Minerals (Development & Regulation) Act, 1957, registered at Police Station Mamdot, District Ferozepur.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 22.11.2021. Order dated 22.11.2021 is read as under:-

“Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in respect of FIR No. 79, dated 02.08.2021, registered under Section 379 IPC and Section 21(3) of Mines &

Minerals (Development & Regulation) Act, 1957 at Police Station Mamdot, District Ferozepur.

Learned counsel for the petitioner argues that in the present FIR, even the description given of the accused, allegedly driving the Tractor Trolley, is of a young man whereas the petitioner is 51 years old and further, the petitioner was not caught at the site and the allegations alleged against the petitioner are yet to be proved and as nothing is to be recovered from the petitioner, who is ready to join the investigation and cooperate, may kindly be granted the benefit of anticipatory bail.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel submits that though, in the FIR, it was mentioned that a young man was driving the Tractor Trolley but actually it was being driven by the petitioner, who is also the owner of the same and the petitioner is yet to explain as to how his Tractor Trolley was found at the site loaded with the sand, which is in total violation of the Mines & Minerals (Development & Regulation) Act, 1957 and hence, custodial interrogation of the petitioner is necessary.

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

As nothing is to be recovered from the petitioner and the Tractor Trolley allegedly filled with sand is already in possession of the police and as the petitioner is ready to join the investigation and cooperate, the

purpose of investigation will be achieved, in case he is directed to join the investigation and cooperate.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

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

(ii) That he 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 he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 24.01.2022.

It is, however, made clear that after the petitioner joins 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 Sukhdev Raj, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 22.11.2021 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He 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 petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

January 24, 2022
Vijay Asija

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No