

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-45844-2022 (O & M)****Date of decision: 29.11.2022**

Dharamvir and anr.

.... Petitioners

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. H.S. Dhindsa, Advocate, for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioners in case FIR No.144 dated 11.09.2022 under Sections 21(1) of Mines and Minerals (Development and Regulation) Act,1957 registered at Police Station Sadar, District Hoshiarpur.

2. The present FIR came to be registered on the complaint of one Manpreet Singh, JE-cum-Mining Inspector, who moved an application dated 10.09.2022 to the SHO, Police Station Sadar, Hoshiarpur with the allegations that a Tipper bearing No.HP-72B-6548, which was carrying earth was seen and the driver on seeing the Government vehicle fled away. Har Har Mahadev Construction Company through its officer Satya Nand was asked to join investigation and it was stated by the company that the said tipper had not been authorized to carry material from the site which had been closed since the last one week. Thus, it was clear that the earth was being brought in the tipper by its driver illegally who on fear of being caught, had

run away. Action was sought against Dharamvir Singh son of Harbans Lal under the Mines and Minerals (Development and Regulation) Act, 1957.

3. The learned counsel for the petitioner contends that the allegations levelled in the FIR are incorrect. In fact, the tipper had been illegally taken into possession by the police and by the Mining Department to falsely implicate the petitioner. The incident in the FIR pertains is dated 11.09.2022 whereas the weighment slip is of 10.09.2022. As per the weighment slip, the petitioner was authorized to carry earth from the spot. Reference is made to the weighment slip No.202 dated 10.09.2022 (Annexure P-2) and the copy of the permit (Annexure P-3) to buttress his argument.

4. The learned counsel for the State, on the other hand, has filed a short reply dated 19.10.2022 by way of affidavit of Palwinder Singh, PPS, Deputy Superintendent of Police, Sub-Division City, District Hoshiarpur. By referring to the reply, he contends that on 10.09.2022 after receiving information from Maninder Singh Mining Inspector, the police party reached at Jahan Khelan, where the Mining Inspector Maninder Singh and Manpreet Singh produced one Tipper bearing No.HP-72-B-6548 before ASI Jasbir Singh loaded with earth. A written application was given for further action to be taken.

Pursuant thereto, during the course of enquiry, Satya Nand, proprietor of Har Har Mahadev Construction Company came present in the office and explained that Form T No.202 dated 10.09.2022 provided by the owner of the said Tipper to the investigating agency purportedly showing that the tipper was carrying earth and was authorized to do so, had in fact not been issued by any worker of Har Har Mahadev Construction Company.

CK1-98655 dated 11.08.2022 had stopped about a week ago. Therefore, it was proved that the driver of the Tipper No.HP-72-B-6548 which was loaded with earth was carrying it illegally and had fled away from the spot due to fear. The Form T No.202 dated 10.09.2022 was, in fact, a fake document. Action was to be taken against the driver of the Tipper who fled away from the spot, the owner of the vehicle and Dharamvir son of Harbans Lal under Section 21 (1) of the Mines and Minerals (Development and Regulation Act) 1957.

He contends that as Form T No.202 dated 10.09.2022 had been found to be forged, offences under Sections 465, 468, 471, 120-B IPC were added on 17.10.2022 vide DDR No.29. The petitioner was a habitual offender having two other cases registered against him including one under the Mines and Minerals Act as per Para 08 of the reply dated 19.10.2022 and, thus, the allegations against the petitioner No.1 and his antecedents did not entitle him to the grant of pre-arrest bail.

He, however, submits that so far as petitioner No.2 is concerned, he has not been nominated as an accused in the present case as yet, and is therefore, not required for custodial interrogation.

5. I have heard the learned counsel for both the parties at length.

6. The case of the petitioners is that they were authorized to carry the earth in terms of Form T No.202 dated 10.09.2022. Reference has been made to certain other weighment slips (Annexures A-1 to A-5) to contend that the petitioners had even earlier been authorized in the same manner, and therefore, it cannot be held that the weighment slip Annexure P-2 was a forgery. The contention of the accused cannot be accepted. Satya Nand, proprietor of Har Har Mahadev Construction Company was examined

Tipper had not been issued Form T No.202 dated 10.09.2022 (Annexure P-2). In fact the digging of the earth of site of Permit No. CK1-98655 dated 11.08.2022 had been stopped a week prior. Based on the said statement, offences for forgery, etc. have been added in the present FIR vide DDR No.29 dated 17.10.2022. It is also to be noted that the petitioner No.1 is a habitual offender with another FIR for having committed the same offence. Illegal mining is playing havoc with the environment. Therefore, the petitioner No.1 cannot be shown any sympathy. Therefore, the seriousness of the allegations certainly do not entitle the petitioner No.1 to the grant of anticipatory bail. Even otherwise, his custodial interrogation is necessary to find out the names of his co-accused, particularly, the driver of the tipper.

7. In view of the above, I find no merit in the present petition. The same is therefore dismissed qua petitioner No.1.

Since petitioner No.2-Charan Singh has not been nominated as an accused the petition qua him is ordered to be dismissed as withdrawn.

(JASJIT SINGH BEDI)
JUDGE

November 29, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No