

205 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-693-2023

Date of Decision: 14.02.2023

Amandeep Sareen

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Gursimran Singh Bawa, Advocate for the petitioner.

Mr. Subhash Godara, Additional A.G., Punjab.

HARSH BUNGER J. (ORAL)

The present petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail to the petitioner in case FIR No.172 dated 21.09.2022 (Annexure P-1), under Sections 4(1) & 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of the Indian Penal Code, registered at Police Station Sadar Patti, District Tarn Taran.

On 09.01.2023, the following order was passed by this Court :-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.172 dated 21.09.2022, registered under Sections 21(1), 4(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of the Indian Penal Code, 1860, at Police Station Sadar Patti, District Tarn Tarn (Annexure P-1).

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated. It is submitted that the petitioner is doing the business of building material under the name and style of Sareen Traders at

Amritsar and owns a tipper, which was recovered by the police officials. He further submits that the petitioner is not named in the FIR, however, he has been nominated as an accused in the FIR at the behest of driver of the vehicle namely, Jaswant Singh, who had named the petitioner only to save himself so that the whole burden could be shifted upon the petitioner. The driver of the tipper i.e. co-accused Jaswant Singh, used to park the vehicle in his own village and the petitioner was not having any information regarding the illegal activities being carried out by Jaswant Singh. He further submits that the petitioner has no connection direct or indirect with the alleged occurrence and he has clean antecedents. Learned counsel also submits that nothing is to be recovered from the petitioner, yet the bail application moved by him under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Additional Sessions Judge, Tarn Taran, vide its order dated 14.12.2022. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency.

Notice of motion.

On the asking of the Court, Mr. Vinay Kumar Gupta, Assistant General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and submits that the petitioner is owner of the tipper and beneficiary of the illegal mining and causing loss to the exchequer; hence, he does not deserve the anticipatory bail.

Keeping in view the fact that the petitioner was not apprehended at the spot; nothing has been recovered from him and he has been nominated as an accused in the FIR at the behest of Jaswant Singh driver of the vehicle; this Court is inclined to grant interim bail to the petitioner.

List on 14.02.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of

the Investigating/Arresting Officer. However, he shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, petitioner has joined the investigation.

Learned State counsel, on instructions from Assistant Sub Inspector Harjinder Singh, has not disputed the aforesaid fact of joining the investigation by petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, order dated 09.01.2023, passed by this Court, is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the directions issued above and the bail conditions, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Present petition is accordingly disposed of.

14.02.2023

Apurva

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No