

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

CRM-M-4427-2023 (O&M)
Date of Decision: 27.01.2023

JAHID

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Ram Kumar Singla, D.A.G., Haryana.

HARSH BUNGER, J.

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail to the petitioner in case FIR No.203 dated 14.09.2022, registered under Sections 420, 467, 468, 471, 379, 120-B of the Indian Penal Code and Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957, at Police Station Partap Nagar, District Yamuna Nagar (Annexure P-1).

Succinctly, the FIR, in question, came to be registered on the complaint of Assistant Mining Engineer, Mining and Geology Department against M/s Vardhman Washing Plant, Village Ballewala, Tehsil Partap Nagar, District Yanager, for issuing forged e-Rwaana for selling/purchase of mining material by misusing e-RwaanaPortal. It was alleged in the complaint that on 13.09.2022, during inspection of M/s Vardhman Washing Plant by the Assistant Mining Engineer along with staff, Mining and

Geology Department, it was found that owner of the said plant had dismantled the plant about eight months ago and despite the fact that no plant was existed at that place, the sale/purchase of mining material was being done in the name of said plant in a fraudulent manner. It is also stated in the complaint that the Inspection Team also made inspection of M/s VikasPuruthi and Company Stone Crusher, Village Belgarh and at that time, 90 e-Rwanna slips were taken into possession, which were found to be issued by M/s Vardhman Washing Plant, causing loss to the State Revenue.

On the basis of aforesaid complaint, case was initially registered under Section 379 IPC and Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 and during investigation, offences under Sections 467, 468, 471, 420 and 120-B were also invoked.

During investigation, one Desh Deepak was arrested in this case, who suffered a disclosure statement, disclosing that in the month of September 2022, portal of M/s VardhmanScreeing Plant was purchased by Shokat Ali resident of TibbiAraiya and Jahid (present petitioner) son of Roshan, resident of JamnawalaSadhaura, from its earlier owner and they had indulged in issuing fake e-Rwaana slip.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR and even the allegations levelled therein are incorrect. He further submits that the petitioner is an illiterate person and merely working as Helper in M/s Vardhwan Washing Plant and in the month of July 2022, the owner of said plant and co-accused Shokat Ali asked the petitioner that the owner is unable to come to the plant in routine and one agreement was got executed to release the vehicle on *sapurdari* and under the garb of execution of said agreement, the signatures of the petitioner were obtained

on some blank papers. It is submitted that the allegations against the petitioner that he had issued fake and forged e-Rwaana receipts by misusing e-RwaanaPortal, are totally baseless as the petitioner is not the registered user of said portal and without the registered mobile number, it cannot be operated. In fact, it is the owner of the plant and one Shokat Ali, who have played a fraud. Learned counsel further submits that the petitioner never entered into any such lease agreement as neither he is owner of said plant nor have any resources to own, manage and run such plant. He also submits that there is no material, which could connect the present petitioner with the alleged crime. It is further contended that no recovery is to be effected from the petitioner and the petitioner is ready to join investigation as and when required by the Investigating Agency or as directed by this Court or the trial Court.

Learned counsel for the respondent-State has vehemently opposed the bail application of the petitioner on the ground of seriousness of offence and submits that custodial interrogation of the petitioner is required as the petitioner is a habitual offender. It is submitted that the petitioner is involved in two more cases i.e. ***FIR No.11 dated 22.01.2012***, registered under Sections 147, 186, 188, 332, 353, 379, 307 and 506 read with Section 149 of the Indian Penal Code, Section 4(1) of the Mines and Minerals (Regulation of Development) Act, 1957, at Police Station Khizrabad, District Yamuna Nagar wherein the petitioner was convicted for four years and ***FIR No.163 dated 12.09.2018***, registered under Sections 379, 420, 467, 468, 471 of the Indian Penal Code and Section 21(4) of the Mines and Minerals (Regulation of Development) Act, 1957, at Police Station

Pratap Nagar, District Yamuna Nagar, and his antecedents did not entitle him to grant of pre-arrest bail.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

A perusal of the paper book would reveal that during investigation into the present case FIR, one Desh Deepak was arrested, who had made a disclosure statement that the present petitioner along with one Shokat Ali, had purchased the portal of M/s Vardhman Screening Plant in September 2022 and they have been indulged in issuing fake e-Rwaana slips. A perusal of Annexure P-2 (lease deed) would manifest that the same is executed by M/s Vardhman Washing Plant, wherein, petitioner (Jahid) is depicted as a proprietor. However, in the instant petition, the petitioner has stated that it is the owner of the plant and co-accused Shokat Ali, who had played a fraud with him by misusing his blank signed papers by executing lease deed (Annexure P-2) with one M/s Vishwakarma Stone Crusher and the petitioner has further denied the execution of such lease agreement. However, in view of the allegation that the petitioner has been facilitating the illegal mining in connivance with others, accordingly, this Court is of the considered view that the custodial interrogation of the petitioner is necessary for proper and thorough investigation of the case so as to ascertain the *modus operandi* of commission of the offence from the very initiation of

illegal mining till the disposal of the minerals etc. and discover the identity of other persons involved and other material aspects of the case.

Moreover, the petitioner has no clear antecedents inasmuch as that he was already convicted in another case FIR No.11 dated 22.01.2012, registered under Sections 147, 186, 188, 332, 353, 379, 307 and 506 read with Section 149 of the Indian Penal Code, Section 4(1) of the Mines and Minerals (Regulation of Development) Act, 1957, at Police Station Khizrabad, District Yamuna Nagar, wherein, he was sentenced to undergo imprisonment for four years.

Resultantly, without expressing anything on the merits of the case, the present petition is dismissed, being devoid of any merits.

January 27, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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