

CRM-M-18417-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18417-2023 (O & M)

Date of decision: 19.07.2023

Dharamvir

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishal Sharma (Vasudeva), Advocate, for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.144 dated 11.09.2022 under Sections 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and Sections 465, 468, 471, 120-B IPC (added later on) vide GD No.29 dated 17.10.2022 registered at Police Station Sadar, Hoshiarpur, District Hoshiarpur, Punjab.

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

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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. As the petitioner was in custody since 26.12.2022 and none of the 11 prosecution witnesses had been examined so far, the petitioner was entitled to the concession of bail.

4. The learned counsel for the State while referring to the short reply dated 19.07.2023, on the other hand, contends that the offences under the Mines and Minerals Act are on the rise, and therefore, the petitioner was not entitled to the concession of bail as he was a habitual offender with one other case of similar nature registered against him bearing FIR No.24 dated 16.03.2020 under Sections 21(1) Mines and Minerals Act at Police Station Sadar, Hoshiarpur. She, however, concedes that the petitioner is in custody since 26.12.2022 and none of the 11 prosecution witnesses had been examined so far.

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

6. Admittedly, the petitioner is in custody since 26.12.2022 and none of the 11 prosecution witnesses have been examined so far. Therefore,

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the trial in the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Dharamvir is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime/case other than the case(s) referred to in this order.

9 In addition, the petitioner (or through someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

July 19, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No