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

CRM-M-32094-2022

Date of decision : 10.01.2023

Sanjeev Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sukhdev Singh Khokher, Advocate for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.149 dated 17.12.2021 registered under Sections 21(1) and 4(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Sections 4 and 5 of the Punjab Land Preservation Act, 1900 and Section 3A of the Forest (Conservation) Act, 1980 at Police Station Kiratpur Sahib, District Rupnagar.

On 02.08.2022, this Court had passed the following order:-

“This is a second petition filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.149 dated 17.12.2021 registered under Sections 21(1) and 4(1) of the Mines and Minerals (Development and Regulation)

Act, 1957 and Sections 4 and 5 of the Punjab Land Preservation Act, 1900 and Section 3A of the Forest (Conservation) Act, 1980 at Police Station Kiratpur Sahib, District Rupnagar.

*Learned counsel for the petitioner has submitted that the petitioner had earlier filed an anticipatory bail application which was dismissed as withdrawn with liberty to file a fresh petition after giving better, correct and complete particulars and thus, the present petition is in effect the first petition for grant of anticipatory bail to the petitioner. It is further submitted that in the present case, neither the petitioner was apprehended at the spot nor any machine of the petitioner was seized/confiscated at the spot and the petitioner has been implicated in the present case without there being any incriminating material against him. It is contended that even registration of an FIR under Sections 21(1) and 4(1) of the Mines and Minerals (Development and Regulation) Act, 1957 is not permissible and has relied upon the **judgment dated 04.09.2014** passed in **Criminal Appeal No.499 of 2011** by the Hon'ble Supreme Court in **State of NCT of Delhi Vs. Sanjay and other connected matters**, in support of his above arguments. It is further contended that the petitioner, in order to show his bona fide, is ready to deposit an amount of Rs.25,000/- with the Forest Department, Punjab, without admitting his liability.*

Notice of motion for 07.09.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

The petitioner is directed to deposit an amount of Rs.25,000/- with the Forest Department, Punjab within a period of three weeks from today and show the receipt of the same to the Investigating Officer.

It is made clear that in case, the said amount of Rs.25,000/- is not deposited with the Forest Department, Punjab within a period of three weeks from today, then the present interim relief granted in favour of the petitioner would be liable to be vacated.

The payment of the amount of Rs.25,000/- would not be construed as an admission of guilt by the petitioner.”

Thereafter, on 05.12.2022, the following order was passed:-

“Learned State counsel has submitted that the petitioner has joined investigation but is required for further investigation.

The petitioner is directed to join investigation again on 20.12.2022 at 11:00 AM.

Adjourned to 10.01.2023.

Interim order to continue till the next date of hearing.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid orders, the petitioner has joined the investigation and has also deposited an amount of Rs.25,000/-.

Learned counsel for the State, on instructions, has submitted that although, the petitioner has joined the investigation but is not cooperating with the investigation.

Learned counsel for the petitioner, in rebuttal, has reiterated the arguments raised on 02.08.2022 and has further submitted that the petitioner has been falsely implicated in the present case and the petitioner was neither apprehended at the spot nor any machine of the petitioner has been

seized/confiscated at the spot nor there is any tangible evidence to show that the petitioner was present at the spot.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 02.08.2022 and also the fact that the petitioner has complied with the directions given in the said order and has joined the investigation, the present petition is allowed and the interim order dated 02.08.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

10.01.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No