

CRM-M-43730-2023

2023:PHHC:139273

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(229)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43730-2023

Date of Decision: 31.10.2023

ANIL KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. H.K. Barinda, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.147 dated 27.10.2022 registered under Sections 21(1), 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 at Police Station Nangal, Tehsil Nangal, District Rupnagar.

2. The present FIR came to be registered on the basis of a complaint made by Manreet Singh, Jr. Engineer-cum-Mining Officer, Nangal to the SHO, Police Station Nangal alleging that on 22.10.2022 checking was being carried out by the Mining Department in the area and around the land adjoining to the Ropar Stone Crusher fresh raw mining material was found at the spot. A huge pit was found having been dug and on measurement it came out that 1,00,000/- cubic feet mining material (gravel) had been extracted from the land. Two poclain machines make Hyundai and Kobelco were found at the spot and were seized.

During the course of investigation, it transpired that the land in question belonged to Rupinder Singh son of Harjit Singh but had been given to someone else on lease. It was also found that the poclain machine make Kobelco was taken by the petitioner-Anil Kumar on rent from Ranjit Singh son of Balwinder Singh. On the said basis, the petitioner was nominated as an accused on 07.06.2023 and arrested.

3. The learned counsel for the petitioner contends that a reading of the FIR would show that the petitioner was not present at the spot and nor was there any connection between the recovered machines and the petitioner. In the absence of any conclusive connection between the illegal mining activities and the petitioner, it would be presumptuous to hold that the petitioner was responsible for the same. As the petitioner was in custody since 07.06.2023, he was entitled to the concession of bail as none of the 09 prosecution witnesses had been examined so far and in the one other case registered against him bearing FIR No.47 dated 23.04.2023, under Sections 21(1) and 4(1) of Mines and Minerals (Regulation of Development) Act, 1957, Police Station Nangal, District Rupnagar, he had been granted the similar concession.

4. A status report dated 31.10.2023 by way of an affidavit of Satish Kumar, PPS, Deputy Superintendent of Police, Nangal, District Rupnagar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. She contends that during the course of investigation, the statement of the owner of the machine make Kobelco was recorded as per which the petitioner had taken the machine on rent for carrying out illegal mining. Therefore, the offence against the petitioner was *prima facie*

established. She, however, concedes that the petitioner was in custody since 07.06.2023, none of the 09 prosecution witnesses had been examined so far and in the one other case registered against the petitioner, he has been granted the concession of bail.

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

6. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 07.06.2023 and none of the 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required moreso when in the one other case registered against him, he has been granted the concession of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Anil Kumar son of Sh. Dharam Pal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone 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.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

31.10.2023

JITESH

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