

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-47112-2023

Date of Decision:-22.09.2023

Anil Kumar.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Dilmrig Nayani, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.47 dated 23.04.2023 under Sections 21(1) & 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 registered at Police Station Nangal, District Rupnagar.

2. The brief facts of the case are that on 23.04.2023 at about 3.50 am during the checking in village Mehadpur, Nagal a Poclain Machine and one Tipper were found being used for illegal mining. A bucket of raw material was found to be filled, its serial number being YQ15512051. On the tipper mark AMW, its number and Chasis number had not been found to be installed. The quarry found at the site was measuring (25X34X18) = 15300 ft. The coordinates of this were 31.2985252, 76.3075456. The engines of the machines were found to be warm. Action was to be taken against the accused under Sections 21 (1), 4(1) of Mines and Minerals

(Regulation of Development) Act, 1957.

During the course of investigation the record of the Tipper and Poclain machines found present at the place of occurrence were obtained and as per the record the tipper and Poclain machine were belonging to Ram Shah and Ranjit Singh respectively who had given their respective Poclain Machine and Tipper Machine to Surjeet Singh(since granted bail vide order dated 05.09.2023 passed in CRM-M-42730-2023) and Anil Kumar (petitioner) respectively. Thereafter, on the statement of Ram Shah and Ranjit Singh respectively, Surjeet Singh and Anil Kumar were nominated as accused.

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 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 he had been in custody since 6.6.2023, he was entitled to the concession of bail as none of 18 prosecution witnesses had been examined so far, the petitioner was a first time offender and his co-accused Surjeet Singh had been granted the similar concession.

4. The Counsel for the State on the other hand contends that during the course of investigation the statements of the owners of the machines were recorded as per which the said machines which had been used to carry out illegal mining had been leased out to the petitioner and Surjeete Singh. Therefore, the offence against the petitioner was prima facie established. He however, concedes that the petitioner is a first time offender, in custody since 6.6.2023 and none of the 18 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.
6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 6.6.2023 and none of the 18 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 more so when his co-accused had already 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

September 22, 2023
Vinay

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