

201

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-52102-2022****Date of Decision: 29.03.2023**

Charan Kanwal Sandhu

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGERPresent : Mr. Himmat Singh Deol, Advocate for
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.155 dated 04.12.2019, registered under Section 188 of the Indian Penal Code and Sections 21(1), 4(1) of Mines and Minerals (Regulation of Development) Act 1957, at Police Station Nangal, District Roopnagar (Annexure P-1).

On 14.11.2022 the following order was passed by Co-ordinate Bench of this Court :-

“Apprehending his arrest in FIR No.155 dated 04.12.2019, registered under Section 188 IPC and Section 21(1), 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 (for short 'the Act') at Police Station Nangal, District Roopnagar, petitioner seeks pre-arrest bail.

Learned counsel for the petitioner inter alia relies upon Annexure P-2 inquiry conducted by the Agency (Superintendent of Police (Det.) Roopnagar wherein it has been found that :-

“5. That in this regard the same was sent to the whatsapp of Inquiry Officer by Avneet Singh, agreement full price is regarding selling of Satguru Stone Crasher; in which it has been written that this agreement today dated 6.3.2020 executed between Charankanwal Sandhu son of Sh Jaswinder Singh Sandhu resident of House No.190, Punjabi Bagh, Patiala (who hereinafter called vendor or first party). In which heirs of first party, representative,

superdar and Tamilkar will also included. Whereas stamp paper No.M-528439 of agreement has been purchased by the second party Avneet Singh from Tehsil S.A.S. Nagar, this agreement is regarding to make fully payment, whereas this stamp was required to be purchased by the vendor party Charankanwar Singh Sandhu. In this regard it is made clear that second party Avneet Singh, with the first owner of Crasher Charankanwal Sandhu the deal had been done in lieu of Rs. 17 lacs on dated 01.10.2019 with regard to the purchase of Satguru Stone Crasher. On the basis of this consignment the vendee Avneet Singh in the name of his father Preet Builder, through bank account advance Rs.9,79,927/- has deposited in the bank account No.37377115329 state bank of India Branch New Officer Colony, Patiala, (RTGS UTR No.IBKIR9201910010005416) of Surinder Pal Kaur's son Charankanwal Sandhu and as per agreement remaining Rs.7,25,073/- were to be given on 31.03.2020. Regarding remaining amount, Avneet Singh on 06-03-2020 for the sale of Satguru Stone Crasher and after preparing agreement for the full amount and after taking into good faith the son Charankanwal Sandhu got the same signed for showing his innocence through Whats App case has been sent to Investigating Officer. Whereas it was observed from the record obtained regarding ownership of Satguru Stone Crasher from the concerned Deptt. under RTI Act 2005 dated 04-12-2019, Avneet Singh has been proved to be owner of Satguru Stone Crasher and son of complainant namely Charankanwal Sandhu has been found to be innocent."

He further refers to Annexure P-9 which is a communication received by none else but the Mining Officer, Roopnagar reiterating the fact that as per the official record, the ownership of the Crusher in question vests in Avneet Singh Son of Rashpal Singh post 01.10.2019. Thus he submits that the petitioner already having been found innocent during the inquiry and not having any relation with the Crusher in question post 01.10.2019 cannot be booked for offences punishable under Section 188 IPC and Section 21(1), 4(1) of the Act on the basis of the contents of the present FIR.

Notice of motion returnable for 29.03.2023.

On the asking of the Court, Mr. Arun Gupta, AAG, Punjab., appears and accepts notice on behalf of the respondent-State.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C. "

Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from ASI Gurnaib Singh has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 14.11.2022 passed by Co-ordinate Bench of this Court is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

29.03.2023
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No