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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM M - 52963-2023

Date of decision: 19.10.2023

Gurnam Singh.....*Petitioner**Versus**State of Punjab*.....*Respondent***Coram: Hon'ble Mr. Justice Rajbir Sehrawat**Present: Mr. Sartaj Singh Thakur, Advocate
for the petitioner

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Rajbir Sehrawat, J. (Oral)

1) The present petition has been filed under Section 438 of the Code of Criminal Procedure, praying for grant of anticipatory/pre-arrest bail to the petitioner in case FIR No. 0057 dated 25.07.2023, registered under Sections 21(1) and 21(4) of the Mines and Minerals (Regulation of Development) Act, 1957, at Police Station Hajipur, District Hoshiarpur (Annexure P-1).

2) It is submitted by counsel for the petitioner that the case against the petitioner is totally false and concocted. The petitioner is not involved in the crime as alleged against him. As per the story of the police, the petitioner is not found in possession of any mining material. The only allegation against the petitioner is that he was owning a *Poclain* machine, which was found parked in the private property, allegedly, nearby the mining site. However, the petitioner is owning a stone-crusher, which needs such kind of machines, as well. Therefore, owning a *Poclain* machine by the petitioner, *per se*, cannot be taken as committing an offence under the Mines and Minerals (Regulation of Development) Act, 1957. There is no other case against the petitioner. The petitioner shall join the investigation as and when

called for by the police. Hence, the petitioner deserves to be protected against his arrest.

3) Notice of motion.

4) Mr. Sandeep Singh, Additional Advocate General, Punjab accepts notice on behalf of the respondent – State.

5) It is submitted by counsel for the State, being instructed by ASI Bharat Singh that the petitioner is directly involved in the crime. Undisputedly, the petitioner owns a *Poclain* machine, which was found parked nearby the mining site. There would not have been any reason for the petitioner to have parked the *Poclain* machine nearby the mining site, if he is not indulging in the mining activities. However, it is not disputed that neither any mining material has been recovered from the petitioner nor was the petitioner or his agent found doing the actual activities of mining. It is also not disputed that there is no other case against the petitioner.

6) In view of the above, but without commenting anything on merits of the case, the present petition is allowed. In the event of arrest, the petitioner be released on bail, subject to his furnishing personal/surety bonds to the satisfaction of the 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.

(Rajbir Sehrawat)
Judge

October 19, 2023

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