

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

CRM-M-53941-2023
Date of Decision:-**21.12.2023**

KULDEEP SINGH @ KULDIP SINGH ... Petitioner(s)
Versus
STATE OF PUNJAB ... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

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Present:- Mr. Shiv C. Bhola, Advocate for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

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MAHABIR SINGH SINDHU , J.

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.124 dated 06.09.2023 registered under Sections 4(1) and 21(1) of the Mines and Minerals (Regulations of Development) Act, 1957 at Police Station, Nangal, District Rupnagar.
2. Allegations are that petitioner was excavating the sand along with mining material without any permit or license.
3. A Coordinate Bench, on 23.10.2023, granted interim bail to appellants and relevant part of the same is recapitulated as under:-

“Prayer in instant petition, filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner in case FIR No. 124 dated 06.09.2023, registered under Sections 4(1) and 21(1) of Mines and Minerals (Regulations of Development) Act, 1957, at Police Station Nurpur Bedi, Rupnagar, District Rupnagar, Punjab.

2. Learned counsel for the petitioner, inter alia, submits that the petitioner has not been named in the FIR, however, his name has been added

subsequently on the pretext that the petitioner is a care taker of Pocklain machine recovered at spot. Learned counsel further submits that the petitioner is neither the owner nor the driver of the said machine and the bail application moved by the petitioner under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Additional Sessions Judge, Rupnagar vide its order dated 16.10.2023 (Annexure P-3). It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

3. Notice of motion.

4. On the asking of the Court, Mr. Vipin Pal Yadav, Additional A.G., Punjab, who is present in the Court, accepts notice on behalf of respondent-State. Learned State counsel opposes the petitioner's plea for bail on the ground of seriousness of offence. Learned State counsel seeks a short accommodation to file status report in this case.

5. List on 05.12.2023.

6. Without commenting anything on the merits of the case, petitioner is directed to join the investigation as and when directed by the investigating agency. In the meantime, in the event of arrest of petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer and the petitioner shall abide by the terms and conditions laid down under Section 438(2) of the Code of Criminal Procedure.

7. A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day.

8. Status report be filed before next date of hearing with an advance copy thereof to counsel opposite. ”

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required.
5. Above factual position is duly acknowledged by learned State Counsel, on instructions from ASI Ranjit Singh and further stated that custodial interrogation of the petitioner is not required at this stage.
6. In view of above, interim order dated 23.10.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

- 7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- 8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- 9. Disposed off accordingly.
- 10. Pending application(s), if any, shall also stand disposed off.

21.12.2023

Gaurav Sorot

(MAHABIR SINGH SINDHU)

JUDGE

Whether reasoned / speaking?

Whether reportable?

Yes / No

Yes / No