

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

212

CRM-M-59729-2022

Date of Decision: 10.02.2023

Jagdish Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Dheeraj Mahajan, Advocate for the petitioner

Mr. Gurpreet Singh Sandhu, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

Status report by way of affidavit dated 07.02.2023 of Aditya Warrier, Assistant Superintendent of Police, Dinanagar, District Gurdaspur filed by respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

On 21.12.2022, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No.221 dated 18.11.2022 registered at Police Station Dinanagar, District Gurdaspur under Sections 21(1) of Mines and Mineral (Development and Regulation), Act 1957 (offence under Section 379 IPC added later on vide GD No.34 dated 07.12.2022).

Learned counsel for the petitioner inter alia contends that as per Section 22 of the Mines and Mineral (Development and Regulation), Act 1957, a Court can take cognizance on a compliant in writing made by a person authorized by Central Government or State Government. The respondent can file compliant qua violation of provisions of Mines and Minerals, Act, however, there is no authority to

register FIR. The respondent to make the offence cognizable has added Section 379 of IPC. The petitioner is a 68 years old man and suffering from various ailments including 70% blockage of arteries as per angiography. No recovery of alleged goods i.e. stones has been affected. The petitioner is a established businessman and Ex-Sarpanch as well Ex-Chairman of Market Committee. The respondents want to implicate because petitioner is a active member of BJP. The petitioner is ready and willing to join the investigation.

Notice of motion returnable for 10.02.2023.

On the asking of the Court Mr. Amish Sharma, AAG, Punjab accepts notice on behalf of the respondent-State and seeks time to file status report.

Meanwhile, the petitioners shall appear before Investigating Officer on 26.12.2022 and would remain present as and when summoned by Investigating Officer and in the event of arrest, the petitioners shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall also abide by the conditions as specified under Section 438 (2) Cr.P.C..”

Learned State counsel submits that petitioner has already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioner vide order dated 21.12.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State

would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

10.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>