

2023:PHHC:161775

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

103

**CRM-M-63494-2023
Date of Decision.:16.12.2023**

Dharma @ Dharmapreet Singh

Petitioner

Vs.

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail under Section 438 Cr.P.C in case FIR No.121 dated 19.10.2023 registered under Section 379 of the IPC and Section 21 of Mines and Minerals (Development and Regulation) Act, 1957 registered at Police Station Koom Kalan, District Ludhiana City.

2. As per allegations, secret information was received by the police that one Akbar Ali resident of Village Gagran; and Dharam Singh @ Dharma (present petitioner) resident of Fatehgarh Gujran were committing theft of sand from a quarry in the side of Village Chakki and uploading the sand in their tractor trolley Sonalika colour Blue; and Arjan colour red and if the raid is conducted then they could be apprehended along with tractor trolley. Raid was conducted but the petitioner fled away by taking benefit of darkness leaving the tractor trolley at the spot.

3. Contention of learned counsel is that petitioner was not apprehended from the spot and that he has been nominated on the basis of disclosure statement of co-accused. Learned counsel further contends that tractor trolley of the petitioner was taken away from the his home. Learned counsel for the petitioner

also contends that no recovery is to be effected.

4. Learned counsel further contends that provisions of Section 41 & 41-A of the Cr.P.C. have not been followed. Learned counsel relies upon '*Arnesh Kumar v. State of Bihar*' reported as (2014) 8 SCC 273.

5. Notice of motion.

6. Mr. M.S. Nagra, AAG, Punjab accepts notice on behalf of respondent- State.

7. As is evident from the FIR itself, secret information was specifically against the petitioner & co-accused and as per the allegations, when the raid was conducted petitioner fled away.

8. In the aforesaid circumstances, this is not a fit case for grant of anticipatory bail to the petitioner.

9. Dismissed.

10. However, it is directed that in case petitioner is required to be arrested, provisions of Section 41 & 41-A Cr.P.C. shall be followed.

(DEEPAK GUPTA)
JUDGE

December 16, 2023

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No