

CRM-M-1306-2024
Date of decision: 13.02.2024

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Rishab Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.043 dated 03.12.2023 under Sections 4 (1) (A)/21 (1) of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of IPC registered at Police Station Nangal Bhoor, District Pathankot, Punjab (Annexure P-1), in which FIR, petitioner has nominated subsequently vide DDR No.23 dated 02.01.2024 (Annexure P-2).

On 11.01.2024, the following order was passed:-

‘The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as CR.P.C) for grant of anticipatory bail to the petitioner in FIR No.043 dated 03.12.2023 under Sections 4 (1)(A), 21 (1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC registered at Police Station Nangal Bhoor, District Pathankot, Punjab (nominated subsequently vide DDR No.23 dated 02.01.2024).

Learned counsel for the petitioner, inter alia, contends that offence under Section 379 IPC has been added to make the offence nonbailable whereas the Mines and Minerals

*(Development and Regulation) Act, 1957 is a special statute, which provides for complete mechanism to deal with offence as alleged in the FIR. It is further contended that no notice under Section 41A Cr.P.C. has been issued to the petitioner and maximum sentence provided for the offences alleged to be committed in the FIR registered against the petitioner is 5 years. As such, in view of the ratio of law culled out in the judgment of the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51**, the petitioner is entitled for bail.*

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice for the respondent-State and opposes grant of anticipatory bail to the petitioner.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 19.01.2024 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 13.02.2024.

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

Learned State counsel on instructions from ASI Rajesh Kumar, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 11.01.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

13.02.2024
Neha

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