

CRM-M-5194-2024
Date of decision: 01.03.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ajay S. Dhiman, Advocate with
Mr. Vijay Lath, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

Through instant petition, the petitioner is seeking anticipatory bail in case FIR No. 0076 dated 14.09.2023 registered under Sections 379 of IPC and Sections 21(1), 4(1) of Mines and Minerals (Regulation of Development) Act, 1957 and Sections 29, 30, 32 and 33 of the Indian Forest Act, 1927 at Police Station Kiratpur Sahib, District Rupnagar.

2. On 01.02.2024, following order was passed:

“The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No. 0076 dated 14.09.2023 registered under Section 379 IPC and Sections 21 (1), 4 (1) of the Mines and Minerals (Regulation of Development) Act, 1957 and Sections 29, 30, 32 and 33 of the Indian Forest Act, 1927 at Police Station Kiratpur Sahib, District Rupnagar.

Learned counsel for the petitioner inter alia contends that any contravention under the Mines and Minerals (Development and Regulation) Act, 1957 is cognizable and punishable under Section 21 of the above Act. As such, FIR cannot be registered under the provisions of Indian Penal Code.

The Mines and Minerals (Development and

*Regulation) Act, 1957 is special enactment regulating the extraction of mines and minerals and as such any contraventions of the Act or the Rules made therein are squarely dealt with by the provisions of the above Act. It is well-settled principle of law that if a special Statute lays down procedures, the one laid down under the general provisions of IPC would not be attracted as held by the Hon'ble Supreme Court in '**Jeewan Kumar Raut and another Vs. Central Bureau of Investigation, 2009 (7) SCC 526** and the judgment of this Court in '**Ajay Kumar Sandhu Vs. State of Haryana' CRM-M-29708-2014 (O&M)**'.*

*He further submits that the petitioner has been falsely implicated in the present case. He relies upon judgment passed by Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre vs. State of Maharashtra and others, 2011(1) RCR(Criminal) 126** to contend that irrational and indiscriminate arrest must be avoided and prays for anticipatory bail. It is further contended that the co-accused has already been granted anticipatory bail by this Court vide order dated 18.12.2023 passed in CRM-M No.59485 of 2023 titled as Manpreet Singh @ Mangi Vs. State of Punjab.*

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State and opposes the prayer for 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 09.02.2024 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.

Nothing observed hereinabove shall be construed as 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.

Adjourned to 01.03.2024.”

3. Learned State counsel, on instructions from ASI Charan Singh, submits that in compliance of order dated 01.02.2024, passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.
4. Keeping in view the statement made by learned State Counsel the order dated 01.02.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.
5. The petition is accordingly allowed.
6. 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.

March 01, 2024

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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No