

2024:PHHC:056099

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

205

CRM-M-5459-2024
Date of Decision : April 25, 2024

CHANAN SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Nirmal Sharma, Advocate
for the petitioner.

Mr. Raghav Garg, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. On 2.2.2024, the following order was passed by this Court:-

“1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner has sought the concession of anticipatory bail, in case FIR No.159 dated 17.10.2023, under Sections 21(1) and 4(1) of the Mines and Minerals (Regulation of Development) Act, 1957, and, Section 120-B of the IPC (added subsequently), registered at P.S. Nangal, Rupnagar.

2. What constituted the bedrock for registration of the instant FIR, was a complaint made by the Sub Divisional Officer, Water Drainage-cum-Mining and Geology, Sub Division, Nangal. The gist of the said complaint, as extracted in paragraph No.3 of the order dated 04.01.2024, whereby, the learned Sessions Judge concerned declined to grant pre-arrest bail to the petitioner, is extracted hereinafter:-

“.....the Sub Divisional Officer, Water Drainage-

cum-Mining and Geology, Sub Division, Nangal wrote a letter to the SHO, Police Station, Nangal pertaining to subject of taking action of illegal mining, submitting that on routine checking, it was found that on the site which is in front of Shri Ram Crusher village Bhalrri, a pit of illegal mining has been discovered. The said pit is located near the Shri Ram Crusher and the said illegal mining has been carried out by the owner of said crusher. The co-ordinates of said pit are 31.287182"N, 76.344206"E and the calculation of material dug from the said pit comes to 8,09,860 cubic feet...."

3. *The learned counsel for the petitioner has submitted that neither the petitioner has been named in the FIR, nor he has any concern or connection with the alleged crime. The petitioner, merely being brother of co-accused Nasib Chand, i.e. owner of the Crusher concerned, has been falsely nominated as an accused in the present FIR, and that too, on the basis of his brother's disclosure statement. Nonetheless, since co-accused Balvir Kumar and Balwinder Singh have been granted bail by the learned trial Court, and, co-accused Nasib Chand has been granted regular bail by this Court, therefore, the petitioner deserves the concession of relief (supra).*

4. *Notice of motion for 03.04.2024.*

5. *Mr. Dig Vijay Nagpal, A.A.G., Punjab, accepts notice on behalf of respondent-State of Punjab.*

6. *In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating*

Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”

2. Today, the learned State counsel on instructions imparted to him by ASI Gurmail Singh, submits that the petitioner has already joined the investigation and he is fully co-operating with the investigation process and he is not required for any further custodial investigation.

3. In view of the specific stand taken by the learned State counsel, the present petition is **allowed** and order dated 2.2.2024 is, hereby, made absolute subject to the condition that the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

(KULDEEP TIWARI)
JUDGE

April 25, 2024
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No