

Date of decision: 20.03.2024

....Petitioner

...Respondent

Mr. Subhash Godara, Addl.A.G., Punjab.

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.134 dated 09.10.2013 under Sections 4(1)/21(1) of Mines and Minerals (Regulations of Development) Act, 1957 registered at Police Station Nurpur Bedi, Rupnagar District Rupnagar, Punjab.

‘This is third petition 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.134 dated 09.10.2023 registered under Sections 4 (1) & 21 (1) of Mines and Minerals (Regulations of Development Act), 1957 at Police Station Nurpur Bedi, Rupnagar.

Learned counsel for the petitioner, inter alia, contends that this is the third petition and earlier two petitions were dismissed as withdrawn with liberty to file afresh. It is further contended that the petitioner is not named in the FIR and he has been implicated later on, being Special Power of Attorney holder of the owner of Tipper bearing Registration No.PB65-BB-5803. It is further contended that maximum sentence provided for the offences alleged to be committed in the FIR

*registered against the petitioner is less than 5 years. It is further contended that no notice under Section 41A Cr.P.C. has been issued to the petitioner and 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 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 23.02.2024 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.

Adjourned to 20.03.2024.

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. '

Learned State counsel on instructions from ASI Baljit Singh, 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 15.02.2024 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

20.03.2024
Neha

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