

Date of decision: 19.03.2024

....Petitioner

...Respondent

Present: Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

On 21.02.2024, the following order was passed:-

Neha
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I attest to the accuracy and
integrity of this document

Learned counsel for the petitioner, inter alia, contends that the petitioner has been nominated in the aforesaid FIR subsequently vide DDR No.23 dated 02.01.2024. It is further contended that similarly situated coaccused Amandeep Sharma has been granted concession of ad interim anticipatory bail by this Court vide order dated 13.02.2024 passed in CRMM No.7754 of 2024 titled as Amandeep Sharma Vs. State of Punjab. Moreover, offence under Section 379 IPC has been added to make it non-bailable whereas the Mines and Minerals (Development and Regulation) Act, 1957 is a special statute, which provides for complete mechanism to deal with the offence as alleged in the FIR. The maximum punishment provided for the offence alleged to be committed in the FIR (supra) is 5 years and no notice under Section 41-A Cr.P.C. was served upon the petitioner. As such, in view of the ratio of law culled out in the judgment rendered by 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 28.02.2024 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 19.03.2024.

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 Rajinder 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 21.02.2024 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

19.03.2024
Neha

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