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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM M-16358-2024 (O&M)

Date of Decision: 05.04.2024

Surinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Parampreet Singh Paul, Advocate,
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 for seeking pre-arrest bail in FIR No. 117 dated 29.12.2023 registered under Section 21(1) of Mines & Minerals (Regulation of Development) Act, 1957 (for short 'the Act'), at Police Station, Sadar Rupnagar, District Rupnagar.

2. The FIR in question was registered on the complaint made by Aman Gulian with the allegations that on 29.12.2023 during checking of village Saho Majra, illegal mining of 400000 cft. with poclain machines was found in the fields of petitioner.

3. Learned counsel contends that petitioner has been falsely implicated in the present despite the fact that company run by petitioner, namely, New Guru Rakha Transport Corporation is the owner of the land in question and he has just levelled the land for his own use and occupation. Further submits that in this regard, permission was granted by the competent vide communication dated 28.06.2023 (P-3), through manual mode, but he has

used the JCB machine and only due to that reason, petitioner has been implicated.

4. *Per contra*, learned State counsel opposed the prayer while submitting that petitioner has used JCB machine as well as poclain instruments and has dug out 400000 cft. of soil from his fields; thus, he has committed an offence under Section 21(1) of the Act; hence, his custodial interrogation is necessary to recover the JCB as well as poclain machines.

5. Heard learned counsel for the parties and perused the paper book.

6. It appears *prima facie* that petitioner has violated the provisions of Section 21(1) of the Act while digging the soils with the JCB and polcain machines to the extent of 400000 cft. and as such, his custodial interrogation is very much necessary to recover the JCB as well as poclain machines.

7. In view of the above, this Court is not inclined to grant the benefit of pre-arrest bail to the petitioner.

8. Consequently, there is no option, except to dismiss the present petition.

9. Ordered accordingly.

10. The above observations be not construed as an expression of opinion on the merits of the case in any manner.

11. Pending application(s), if any, shall also stand disposed off.

05.04.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No