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

102 **CRM-M-24990-2024**
Date of Decision : May 24, 2024

SANAWAR AHMED -PETITIONER

V/S

STATE OF HARYANA -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

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KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in FIR No.68 dated 05.03.2024, under Sections 420, 467, 468, 471, 379, 120-B of the IPC, and, Section 21(1) of Mining Act, registered at P.S. Bilaspur, District Yamuna Nagar.

2. The case set up by the prosecution is that, a letter/complaint No. 3260-R dated 28.02.2024 from the Mining Department, Yamuna Nagar, was received in the Office of Superintendent of Police, Yamuna Nagar, wherein, it was alleged that, the Mining and Geology Department, Haryana had launched a new Portal 'HMGIS' on 25.12.2023 for stopping forged purchases of minerals. On 27.02.2024, while examining the new Portal, it became noticed by the authority concerned that forged permits No. 240223005755 and 240213005372 for boulders, gravels and sand in the

name of M/s KCC Buildcon Pvt. Ltd. Company and permit No.240210005269 in the name of M/s S.R. Construction Company in respect of Village Dhanaura, Tehsil Bilaspur, District Yamuna Nagar were issued. Accordingly, a request was made to the addressee to investigate the matter and take appropriate action against the owners of the said firms. On the basis of this letter/complaint, initially the present FIR was registered under Sections 420 and 120-B of the IPC and during the course of investigation, other Sections were also subsequently incorporated therein.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE PETITIONER

3. The learned senior counsel for the petitioner submits that neither the petitioner has been named in the present FIR, nor the investigating agency is seized of any cogent inculpatory evidence against the petitioner to connect him with the alleged crime. In fact, the petitioner is, neither directly nor indirectly, involved in the commission of alleged forgery or cheating. To substantiate this submission, he submits that although the plant in question was earlier registered in the name of petitioner's son, however, much prior to commission of the alleged offence, it was transferred in the name of one Munnower Alvi. The petitioner's son was proprietor of the firm, namely, Keshav Mineral Screening Plant and he had sold the same to Munnower Alvi. Moreover, Eklavya, who was owner of the land, on which the screening plant was installed, also entered into an agreement dated 01.08.2023 for giving the land on lease to Munnower Alvi for the period w.e.f. 01.08.2023 to 30.06.2024.

4. The learned senior counsel for the petitioner further submits

that, the petitioner has been falsely implicated in the present FIR, merely on the basis of GST Registration of Keshav Mineral Plant, wherein, the mobile number of the petitioner was mentioned. He further submits that, in fact, the intimation regarding transfer of the plant concerned in favour of Munnower Alvi was duly made to the Mining Department, whereupon, the petitioner's son Slam Khan duly received an email from the authorities concerned regarding cancellation of Registration (GST REG-16) vide AA061023012111C dated 10.10.2023. Not only this, before every other authority concerned also, the legal name/name of proprietor of the plant concerned was changed in the name of Munnower Alvi and the petitioner did not have any connection with the said plant.

5. The learned senior counsel for the petitioner also submits that, for various transactions for running the plant concerned, OTPs are required and on various portals like *Kanta* Portal etc., the mobile number of the proprietor is required, which in the instant case, was not in the name of the petitioner, rather was in the name of Munnower Alvi. Finally, he submits that the maximum punishment prescribed for the offence(s) invoked in the present FIR under the Mining Act is 05 years, whereas, no offence whatsoever under Sections 467 and 468 is made out against the petitioner.

SUBMISSIONS OF THE LEARNED STATE COUNSEL

6. *Per contra*, the learned State counsel, who is assisted by the investigating officer, vehemently opposes the grant of anticipatory bail to the petitioner, *inter alia* on the ground that, the petitioner is a habitual offender, as he is involved in nine other cases of illegal mining. He further submits that, Munnower Alvi, in whose favour the plant concerned is claimed to

have been transferred, was only a Munshi (Clerk) of the petitioner, whereas, the kingpin behind the commission of the present offence is the petitioner himself.

7. The learned State counsel has also placed on record a reply, on affidavit of Kanwaljeet Singh HPS, Deputy Superintendent of Police, Head-quarters, Yamuna Nagar.

GIST OF THE REPLY

8. A perusal of the reply reveals that it embodies the hereinafter discussed complete details of investigation, besides embodying therein the role and criminal antecedents of the petitioner.

9. What emanates from a studied perusal of the reply is that, during investigation, the email ID and details of mobiles numbers of the accused were obtained from the Cyber Cell, Yamuna Nagar. It was found that the accused company(ies) had not applied on the new 'HMGIS' portal and permits of the company(ies) were registered on the new 'HMIGS' portal by unknown person(s). Moreover, on checking the record of e-rawana/bills, it was found that aforesaid company(ies) had issued forged e-rawana/bills to five screening plaints in Yamuna Nagar, in respect of 70 thousand metric tonnes of mining material. The said five screening plants used to sell the mining material stocked with them, through illegal mining, by using the said forged e-rawana/bills, thereby making illegal material to be legal and making sale thereof to the transporters. Resultantly, Sections 467, 468 and 471 of the IPC were added in the present FIR.

10. On 10.04.2024, co-accused Sajid Ali was arrested in the present case and upon interrogation, he suffered his disclosure statement and got re-

covered mobiles, make 'OPPO Reno 7 Pro 5G' and 'SAMSUNG Galaxy S23'. Thereafter, co-accused Jagdeep Singh and Ravi Kumar @ Ramu were arrested in the present case respectively on 11.04.2024 and on 16.04.2024, and, upon interrogation, they also suffered their respective disclosure statements and got recovered mobiles. The whatsapp chat(s) between co-accused Ravi Kumar @ Ramu and Deepak was also collected. It was revealed that the co-accused Deepak had, in connivance with his co-accused, tampered with new 'HMIGS' Portal and thereby caused loss of revenue of approx. Rs.2 Crores and 10 Lakhs to the Government of Haryana. The mobile used for the e-mail ID link for the aforesaid Companies was found to have been operated by co-accused Deepak. In this regard, CDR of the mobile used by co-accused Deepak was also collected and as per CDR, he was found to be present in the area of Mining Zones of Police Stations Partap Nagar and Bilaspur.

11. As per the disclosure statement of co-accused Sajid Ali, co-accused Deepak had received Rs.31.50 lakhs in District Yamuna Nagar at different places and on different dates for storing fake stock with them. Co-accused Deepak and Sajid Ali were found to be connected through whatsapp chats and whatsapp calls. Moreover, during investigation, it was also found that, OTPs were received on different dates on the mobile of co-accused Deepak from the Mining Department.

12. On 18.04.2024, co-accused Satya Parkash was arrested in the present case and upon interrogation, he suffered his disclosure statement and got demarcated the places where he along with the petitioner had done illegal mining in the area of Bailgarh, P.S. Partap Nagar, Distt. Yamuna Na-

gar and thereupon, Section 379 of the IPC and Section 21(1) of the Mining Act were added in the present case.

13. Thereafter, on 28.04.2024, co-accused Deepak was also arrested in the present case and upon interrogation, he also suffered his disclosure statement and got recovered his mobiles, Laptop make 'Dell' and a sum of Rs.2,50,000/- and also got demarcated the relevant places. On the basis of his disclosure statement, co-accused Anoop Kumar posted in the Mining Department, Headquarter, Panchkula was arrested in the present case and upon interrogation, he suffered his disclosure statement and got recovered his mobile, Laptop and a sum of Rs.3,50,000/- and also got demarcated the relevant places.

14. Following this chain of events, the investigating agency, on 30.04.2024, arrested co-accused Naveen Soni and Raj Yadav, who was working in the I.T. Cell of Mining Department, Headquarter, Panchkula and upon interrogation, they suffered their respective disclosure statements and got recovered incriminating materials, including sums of money, which were received by them in pursuance of illegal mining.

ROLE OF THE PETITIONER

15. The role of the petitioner, as surfaced during the course of investigation, is recorded in the reply (supra), relevant portion whereof is extracted hereunder:-

> *"15….. the name of the petitioner was surfaced during investigation upon the disclosure statements of the accused Satya Parkash, Sajid Ali, Ravi Kumar @ Ramu and Deepak. As per the investigation, it was found that the petitioner was running a screening plant in the name of Keshav Mineral situated at Village Bailgarh, P.S. Partap*

Nagar, Distt. Yamuna Nagar. The license of above said Keshav Minerals is in the name of Munnawar Alvi but in fact the said Munnawar Alvi is working with the petitioner and the petitioner is actual owner of above said screening plant Keshav Minerals. In this regard, record from the District Mining Officer, Yamuna Nagar has been taken into the possession. The perusal of said record shows that the mobile number mentioned on the licence of Keshav Mineral Screening Plant belongs to the petitioner.

16…... as per CDR, there is frequent conversation between the accused Deepak and the present petitioner in the month of February-2024. Moreover, from the mobile recovered from accused Deepak, Whatsapp calls between the petitioner and the accused Deepak were found to have been made. The petitioner has shown the fictitious entries of purchase of minerals of 21,781 tonnes in the name of Keshav Minerals from the fake companies through Short Term Permits and thereby caused loss of Rs.2,10,00,000/- to the Mining and Geology Department, Haryana."

ANTECEDENTS OF THE PETITIONER

16. As per the reply (supra), the petitioner is a habitual offender, inasmuch as, he is involved in the hereinafter extracted nine cases of illegal mining:-

1. FIR No.55 dated 08.04.2018, under Section 379 IPC and 21.1 of Mining Act, Police Station Partap Nagar, District Yamuna Nagar.
2. FIR No.69 dated 22.04.2018, under Section 379 IPC and 21.1 of Mining Act, Police Station Partap Nagar, District Yamuna Nagar.
3. FIR No.34 dated 03.03.2019, under Section 379 IPC and 21.1 of Mining Act, Police Station Partap Nagar, District Yamuna Nagar.
4. FIR No.166 dated 09.06.2021, under Section 379 IPC and 21.1 of Mining Act, Police Station Partap Nagar, District Yamuna Nagar.
5. FIR No.264 dated 03.11.2021, under Section 379 IPC and 21.1 of Mining Act, Police Station Partap Nagar, District Yamuna Nagar.
6. FIR No.80 dated 19.03.2021, under Section 379 IPC and 21.1 of Mining Act, Police Station Partap Nagar, District Yamuna Nagar.
7. FIR No. 197/2016, under Section 379 IPC and 21.1 of Mining Act,

3 PDPP ACT, Police Station Mirjapur, District Saharanpur, Uttar Pradesh.

8. FIR No.213/2017, under Section 379 IPC and 21.1 of Mining Act, 3 PDPP ACT, Police Station Mirjapur, District Saharanpur, Uttar Pradesh.

9. FIR No.290/2017, under Section 379 IPC and 21.1 of Mining Act, 3 PDPP ACT, Police Station Mirjapur, District Saharanpur, Uttar Pradesh.

<u>REASONS FOR DISMISSING THE INSTANT PETITION</u>

17. The *prima facie* inference, as becomes generated from the here-inabove discussed material is that, the petitioner, who is a habitual offender, has along with his co-accused (already arrested) and some of the officials of the mining department, played a specific and categoric role in tampering with the new 'HMIGS' portal, which was created by the government to stop illegal mining, thereby rendering futile the efforts of the government to curb the menace of illegal mining. In fact, the petitioner and his co-accused found loopholes in the e-rawana system and took undue advantage thereof, thus causing huge loss to the exchequer.

18. For all the reasons (supra), especially taking into account the gravity of the offence committed, role played by the petitioner in commission of the offence and his criminal antecedents, this Court is not inclined to grant the extraordinary relief of anticipatory bail to the petitioner. Consequently, the instant petition is **dismissed.**

(KULDEEP TIWARI)
JUDGE

May 24, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No