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(223) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26018-2024 (O & M)
Date of Decision: 24.07.2024

Sanjeev Kumar @ Sanju

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Arjun Veer Sharma, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Ritesh Aggarwal, Advocate,
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in this petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.143 dated 27.08.2022 under Sections 307/353/186/379/427/148/149 IPC and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 registered at Police Station Machhiwara, Police District Khanna, District Ludhiana.

2. The present FIR came to be registered at the instance of officials of the Mining Department and reads as under:-

“One application bearing No. 1-2/Spl./Tandi Mand dated 27.08.2022 from Sh. Munish Batra, Sub Divisional officer-Cum-Assistant District Mining officer, Ludhiana, Water Drainage Sub Division, Ludhiana, endorsed by ASI Pargat Singh 573/Khanna, incharge Chowki Sherpur Bet has been received at police station



::2::

for registration of FIR by hand through HC Harbans Singh 167/Khanna contents of which are as follows. To SHO P.S. Machhiwara Sahib, Ludhiana, Sub:- Regarding registration of FIR for illegal mining of sand, for intention to murder, for interfering in doing government and for damaging the vehicles. In context to the abvoe cited subject, it is being written that in the intervening night of 26.08.2022 and 27.08.2022 on receipt of secret information raid was conducted at Satluj river near village Tandi Mand. Beside the undersigned, J.E.-Cum-Mining Inspector Jasmeen Singh, Pankaj Verma, Karam Singh and Swaranjit Singh were also members of the party fro the mining department. On reaching the spot, it was found that few notorious persons were loading the sand in 6/7 tractor trolleys. Mining team was attacked with sharp weapons. During which JE-Cum-Mining Inspector Jasmeen Singh fled into the fields and save himself. Motorcycle of Karam Singh and Swaranjit Singh were badly damaged. The government Bolero vehicle of the Mining department was also attempted to be attacked and with great difficulty the life was saved after fleeing away from the spot, whereas, Mining Inspector Jasmeen Singh remained hidden in the fields there. Thereafter, SHO P.S. Machhiwara Sahib was informed by the undersigned and while apprising the serious situation at the spot asked to reached at the spot immediately. Thereafter, Chowki Incharge Sherpur Pargat Singh ASI alongwith police party reached at the spot, whom entire spot was shown and mining inspector Jasmeen Singh was saved out, who was hiding in the fields to save his life. During this, taking the advantage of darkness, said accused fled away from the spot alongwith tractor trolleys. The fresh marks of the tyres of tractor trolleys are present at the spot and heaps of sand were there at the site of illegal mining. From this, it is apparent that seeing the police and mining team, the accused persons have fled away



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alongwith tractor and trolleys. Thereafter, the mining team and the police party checked in village Tandi Mand, so that information regarding accused persons can be gathered. During search, huge quantity of sand was seen kept in an under construction house, one trolley was present in the house, wherein fresh wet sand was present in some quantity. From this, it is apparent that the trolley filled with sand was emptied in this house only. In the house, one Platina motorcycle without number was also present, which was seen by JE-Cum-Mining Inspector Jasmeen Singh at the site of illegal mining. Thereafter, during checking one tractor Eicher-650 Grey coloured having chassis No.931415311902 was parked near a room near one motor, the engine of which was hot and some sand was present at the tyres. Beside this one Maruti car bearing registration No.PB-02BH-5282 and one CT-110 motorcycle bearing registration No.PB-43F-6386 was also lying parked. From which, it is apparent that these vehicles were involved in the illegal mining by the accused persons. During inquiry it was revealed that one Swaraj and one Arjun Tractor are owned by (1) Sunil Singh son of Gurmukh Singh, who is residing of village Gaunsgarh; 2) Pindi r/o Machiwara Pakka is occupying one Arjan, one Sonalika and one Eicher tractor; 3) Gurpreet Singh son of Mohan Singh r/o Village Tandi Mand is occupying one Sonalika tractor; 4) Kulwinder Singh son of Mohan Singh residents of village Tandi Mand; 5) Amrik Singh son of Avtar Singh r/o village Tandi Mand are occupying one Arjun Tractor Besides these, 8/10 unknown persons each. had participation the attack. Aforesaid accused persons are doing the illegal business of illegal mining. Considering the aforesaid facts, FIR be lodged against aforesaid accused persons, against the owners of the aforesaid vehicles while confiscated aforesaid tractor trolleys and other vehicles against accused, who dumped the sand in the house under



::4::

construction and against the owners of the site of illegal mining under section 21 of the Mining Act and 379 IPC and 307 IPC for attacking the mining the and for attempting to kill them, under section 427 IPC for damaging the vehicles, under section 353/186 IPC for causing hindrance in performing government duty, under section 148/149 IPC for attacking with common intention. Action taken be conveyed to this office. Fine be also recovered as per the instruction of NGT. Copy; Executive Engineer-Cum-District Mining officer, Ludhiana for information and further proceedings. Sd/- Munish Batra, Sub Divisional officer-Cum-Asstt. District Mining officer, Ludhiana Water Drainage Sub Division, Ludhiana, Mb. No. 98881-53888. Sd/- Pankaj Verma JE-Cum-Mining Inspector, Ludhiana Water Drainage Sub Division, Ludhiana, Mb. No.70098-27895. Sd/ JE Jasmeen Singh, 99887- 63366”.

2. During the course of investigation, 18 persons were nominated as accused. Later, two accused were declared innocent and two are absconding. 13 accused had been granted the concession of bail either by the Trial Court or this Court.

3. The learned counsel for the petitioner contends that as 13 accused have already been granted the concession of bail, the petitioner was entitled to the similar concession as he was a first-time offender, in custody since 16.12.2023 but none of the 19 prosecution witnesses had been examined so far, thereby delaying the conclusion of the Trial.

4. The learned counsel for the State, on the other hand, while referring to the status report dated 19.06.2024 contends that all the accused including the petitioner assaulted the police party leading to the registration of



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the instant FIR. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitled him to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 16.12.2023 and none of the 19 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, he is a first-time offender, in custody since 16.12.2023 but none of the 19 prosecution witnesses have been examined so far. Therefore, the Trial of the present case was not likely to be concluded anytime soon. In this situation, his further incarceration is not required, moreso, when 13 co-accused have already been granted the concession of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sanjeev Kumar @ Sanju is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case/crime other than present one.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.25,000/- and deposit the same with the Trial Court.



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The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 24, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No