

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRM-M-53617-2023
Date of decision: February 28, 2024

MANGAT RAM

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.S. Ghuman, Advocate
with Mr. Atul Kumar, Advocate
and Mr. P.S. Maan, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab
with ASI Gurnaib Singh.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.129 dated 27.08.2023 for offences under Sections 4(1) and 21(1) of Mines and Mineral (Regulations of Development) Act, 1957, registered at Police Station Nangal, District Rupanagar.
2. Before proceeding further, it would be apposite to reproduce the relevant portion of the FIR in question hereinbelow: -

“To, SHO PS Nangal. Subject: In respect to Pocklain and Tipper doing illegal mining. In respect to subject cited above this is hereby written that today dt.27.08.2023 at time about 1:25 AM mining team conducted surprise checking of crushers situated in area of Village Khera Kalmot to stop illegal mining and during checking 2 Pocklain and 4 Tippers were caught doing illegal mining on the hill adjoining to Kalgidhar Stone Crusher. Out of

above mentioned machinery mining team seized 1 Pocklain and 4 Tippers but the driver of 1 Pocklain (which was at the top of hill) managed to flee away in Pocklain by taking advantage of height. Afterwards, team followed the marks of the machine and managed to find the machine. It is pertinent to mention here that the machine caught by chasing was standing in Kalgidhar Stone Crusher and was hot. Particulars of Tippers and Pocklain are as under:- 1) Tipper No. PB12Y3679, colour yellow, Brand Mahindra Blazo 35, 2) Tipper No. PB12Q0662, colour white, Brand AMW 2518 TP, 3) Tipper did not have registration number, colour yellow, 4) Tipper did not have registration number, colour white, Brand TATA 2825K Signa, 5) Pocklain Serial No: 5200-54657, colour orange, Branch TATA Hitachi EX 200LC, 6) Pocklain Serial No:- SP21-61478, colour orange, Branch TATA HITACHI EX 210LC. As per above, this is hereby written that inquiry be conducted into the matter and necessary action be taken under sections 21(1), 4(1) of Mining Act. Sd/- Gurditpal Singh SDO, Nangal Drainage Cum Mining. CC:- XEN, Mining cum Drainage, Shri Anandpur Sahib.”

3. On a pointed query put to the learned counsel for the petitioner as to whether the petitioner has been charged under Section 379 IPC, he replied in the negative.

4. Learned counsel for the petitioner *inter alia* contends that in a magisterial trial, the petitioner has been in custody for almost 6 months having been arrested on 06.09.2023. Learned counsel submits that allegedly, 2 Pocklain and 4 Tippers were found indulging in illegal mining adjoining the Stone Crusher of the petitioner. Learned counsel further submits that a perusal of the FIR reveals that the recovery of 1 Pocklain and 4 Tippers were admittedly effected from the land adjoining that of the petitioner's Crusher and hence, there was no direct evidence to link him with the illegal mining. Learned counsel has also informed the Court that after the registration of the FIR, not only has the challan been presented but even charges stand framed, however,

the prosecution evidence has not yet commenced and will only commence on the next date of hearing fixed before the learned trial Court i.e. 05.03.2024.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the learned counsel for the petitioner, on instructions, has not been able to dispute that as per the allegations levelled, the recovery of 1 Pocklain and 4 Tippers was effected from the land adjoining the Stone Crusher of the petitioner, however, he submits that the petitioner had been indulging in illegal mining; on a previous occasion also, a case was registered against him in the said regard. Learned State counsel, on further instructions, has not controverted that the investigation in the case in hand is complete. He, on further instructions, has informed the Court that as many as 19 witnesses have been cited by the prosecution and the evidence of the prosecution is likely to be recorded from the next date fixed before the learned trial Court i.e. 05.03.2024.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner has been in custody since 06.09.2023. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as his further incarceration would serve no useful purpose. Accordingly, the instant petition is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to add here, in case the petitioner is found misusing the

concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

February 28, 2024
Jaspreet Kaur/Sonia

(MANJARI NEHRU KAUL)
JUDGE

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