

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63926-2023
Date of decision: 27.02.2024

Punjab Singh and anotherPetitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohit, Advocate for
Mr. M.S. Bhatti, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. read with Section 482 of Cr.P.C. seeking anticipatory bail in case bearing FIR No.77 dated 26.04.2022 under Sections 379/323/120-B of IPC and Section 21 of Mines and Minerals (Development and Regulation) Act, registered at Police Station Lopoke, Amritsar, Punjab.

On 04.01.2024, the following order was passed:-

'...The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioners in FIR No.77 dated 26.04.2022 registered under Sections 379/323/120-B of IPC and Section 21 of Mines and Minerals (Development and Regulation) Act, registered at Police Station Lopoke, Amritsar, Punjab.

Learned counsel for the petitioners inter alia contends that the petitioners are not named in the FIR and the offence under Section 379 of IPC can not be invoked as the alleged offence would breach the threshold of Section 21 of the Mines and Minerals (Development and Regulation) Act. No description of land is given in the FIR from which the alleged mining has taken place.

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.

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 petitioners are directed to appear before the Investigating Officer on or before 11.01.2024 and on their doing so or in the event of arrest, the petitioners shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioners shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioners to join the investigation, the petitioners would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the investigation, in terms of the order of this Court.

Adjourned to 27.02.2024.

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 Mukhtiar Singh, at the very outset informs the Court that the petitioners have joined the investigation and their custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 04.01.2024 is hereby made absolute. The petitioners shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

27.02.2024
Neha

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