

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-63950 of 2023
Date of Decision: February 09, 2024

Ramandeep Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present : Mr. Tushar Sharma, Advocate
for the petitioner

Mr. Subhash Godara, Addl. A.G. Punjab

Harpreet Singh Brar, J. (Oral)

1. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.79 dated 08.12.2023 registered under Section 21 (1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of IPC at Police Station Taragarh, District Pathankot.

2. On 19.12.2023, the following order was passed :-

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in a case bearing FIR No.79 dated 08.12.2023 under Section 21 (1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of IPC registered at Police Station Taragarh, District Pathankot (Annexure P-1).

Learned counsel for the petitioner inter alia contends that the petitioner has already obtained all requisite permissions including the registration certificate from the competent authority. No mining material has been recovered at the spot. The petitioner has been

*involved in the present case on the basis of the statement of the co-accused. The perusal of the FIR indicates that no offence under Section 379 of IPC is made out. Moreover, the Mines and Minerals (Development and Regulation) Act, 1957 is a special statute that provides a complete mechanism for dealing with any violation of the Act and Section 379 of the IPC was added in the FIR only to make the offence non-bailable, which is in violation of the law laid down by the Hon'ble Supreme Court in **Jeevan Kaur Raut and another v. Central Bureau of Investigation (2009) 7 SCC 526** and by this Court in **Ajay Kumar Sandhu v. State of Haryana CRM-M-29708-2014**.*

Notice of motion.

On the asking of the Court, Mr. I.P.S. Sabharwal, DAG, 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 petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner 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 petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.*

Adjourned to 09.02.2024.

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. ”

3. Learned State counsel, on instructions from SI Raman Kumar, states that pursuant to order dated 19.12.2023, the petitioner has joined the investigation and is no more required for custodial interrogation.

4. In view of the statement of learned State counsel, order dated 19.12.2023 is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.

5. Petition stands disposed of.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

February 09, 2024

reena

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No