

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-64286-2023

Reserved on: 19.01.2024

Pronounced on: 20.01.2024

2024: PHHC:008022

Naresh Kumar

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.Brijender Kaushik, Advocate, for the petitioner.

Mr.Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 CrPC, petitioner prays for grant of anticipatory bail in case FIR No.27 dated 11.11.2023 under Sections 379 IPC and 21(1) of the Mines & Minerals (Regulations of Development) Act, 1957 [for short 'the Act'] at Police Station Haryana State Enforcement Bureau, Ambala.

2. As per prosecution allegations, on 29.08.2023, Assistant Mining Officer, Sunil Kumar inspected Shahzadpur area and found tractor trolley bearing EeG No.BZADK1305058S3, which after verification from the record of registration authority Barara, District Ambala found to be bearing Eng. No.4105NE34D1292672F32, Chassis No.GZADK1305058S3 and registration No.HR-54F-7417, loaded with gravel. Driver failed to produce any e-rawana/Bill. Finding him to be involved in illegal mining/illegal transportation of the gravel/mining material, the vehicle was seized. In view of Rule 101(10) and 106 of the

Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 [for short 'the Rules'], the vehicle was taken into possession and seized with the local police. In view of the orders passed by the National Greens Tribunal dated 19.02.2020, the vehicle can be released on payment of compensation with damage to the environment and royalty, cost, fine by the owner/driver of the vehicle. In case the same is not deposited within one month as per Rule 101(10) of the Rules; and within three months as per Rule 106 of the Rules then legal action is required to be taken against owner and driver. Further prosecution case is that petitioner-Naresh Kumar being the owner of the tractor trolley in question was issued notice to deposit the penalty, royalty and cost of mineral to the tune of Rs.2,15,000/-. Petitioner failed to do so. Complaint was sent to the Police Station resulting into registration of the FIR.

3.1 It is contended by Id. Counsel that he is a farmer by profession and not involved in illegal mining. FIR has been lodged only on account of non-payment of the penalty amount of Rs.2,15,000/- imposed as per the direction of National Green Tribunal; that tractor trolley is already in possession of the police; that petitioner is ready to join the investigation; that his custodial interrogation is not required and so he be allowed anticipatory bail.

3.2 Ld. Counsel has also referred to an order dated 28.11.2023 passed by this Court in CRM-M-47197-2023 titled 'Shanti Vs. State of Haryana', wherein anticipatory bail was allowed in the similar circumstances.

4. Status report has already been filed.
5. Ld. State counsel does not dispute the fact that tractor trolley in question owned by the petitioner is already in the possession of the police and that FIR has been lodged on account of non-payment of the penalty. Status report does not reveal any criminal antecedents of the petitioner.
6. Having regard to the aforesaid facts and circumstances of the case, but without commenting anything further on the merits of the case, petition is allowed. Petitioner is directed to be released on bail in the event of his arrest to the satisfaction of arresting officer, subject to his joining the investigation and co-operate in the same. He shall also abide by all conditions contained in Section 438(2) Cr.PC.

(DEEPAK GUPTA)
JUDGE

20.01.2024
Vivek

1. Whether speaking/reasoned?

Yes
2. Whether reportable?

No