



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

265

CRM-M-60089-2024

Date of decision: 24th January, 2025

Hemant Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Namit Khurana, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

Present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail to the petitioner in case FIR No. 431 dated 24.11.2022 registered under Sections 379 and 420 of Indian Penal Code, 1860 and Section 21(4) of Mines and minerals (Regulation and Development) Act, 1957 at Police Station Bilaspur, District Yamuna Nagar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR had been registered on the basis of complaint got lodged by Assistant Mining Engineer, Mines Geology Department, Yamunanagar alleging that the premises of M/s R.R. Stone and Screening plant situated at Village Nagli-32, District Yamunanagar, which was the proprietary concern of the petitioner, had been inspected by a team of the members of mining department. On downloading the record of sale



and purchase of minerals from online portal, it was observed that though no sale of mineral was shown after 10.06.2022 and no sale was shown after 15.10.2022 but three registers containing manual entries were found showing details of regular sale and purchase of minerals that had not been reflected on online portal which clearly suggested that the owner of the plant was indulged in illegal purchase of minerals by illegal mining and sale of the same. It was also revealed that huge quantity of minerals having value of Rs. 1,02,01750/- had been illegally mined and sold. It was also revealed that the operation of the firm of the petitioner had been ordered to be closed by the State Pollution Control Board as on 10.03.2022 and its licence was cancelled, thereby prohibiting the petitioner from mining in the area and despite that he had not stopped the operation of the unit and had forged false entries on the record. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner had filed an application for grant of anticipatory bail, which was dismissed by the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhari vide order dated 29.10.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. The requisite mining rules have not been followed before lodging the FIR against him. The offences under Sections 379 and 420 of IPC have not been made out as against him. No opportunity of hearing was provided to him. He is ready to join the investigation. No recovery is to be effected from him. His custodial interrogation is not required. The case is based upon documentary evidence. Therefore, it is urged that the petitioner deserves to



be extended benefit of pre-arrest bail.

4. Status report has been filed by respondent-State. It is argued by learned Assistant Advocate General, Haryana that there are specific allegations against the petitioner, who caused loss to the tune of Rs. 1,02,01750/- to the State exchequer by indulging in illegal purchase and sale of minerals by carrying on mining operations despite the fact that the operation of his firm had been directed to be closed. It is further submitted that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter. There is no extra ordinary circumstance warranting grant of benefit of pre-arrest bail to the petitioner. Accordingly, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. The allegations against the petitioner are that he was indulged in illegal mining of minerals like sand, gravel etc. and its sale and purchase. On inspecting the premises of his firm, though no purchases and sale were shown through online portal but the manual registers recovered from the spot have shown that huge loss of money had been caused to the State exchequer. The petitioner has also been booked for offences punishable under Section 21(4) of Mining Act. Though as per the mining rules, FIR can be registered only by third time violation, however, the petitioner has been booked for commission of offence of theft and cheating also. The allegations against him are serious in nature. For conducting thorough investigation in the matter and for eliciting information as to the manner, in which the subject offences have been committed by him, the custodial interrogation of



the petitioner is required. Even otherwise, no extra ordinary or sparing circumstance has been made out for the purpose of extending benefit of bail to the petitioner. Keeping in view the discussion as made above, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

7. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

24th January, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |