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CRM-M-28493-2020

BITTU RAM V/S STATE OF PUNJAB

Present : Mr. Ferry Sofat, Advocate
for the petitioner.

The case has been taken up for hearing through video conferencing.

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 0144 dated 25.08.2020 registered under Section 379 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 21 of the Mines and Minerals (Development and Regulations) Act, 1957 at Police Station Koom Kalan, District Police Commissionerate Ludhiana.

As per the prosecution version, on 25.08.2020, police party headed by ASI Kamaljit Singh received secret information that Bitu Ram after doing illegal mining near the river bridge used to sell sand at a higher rate in the city and if a raid be conducted, the accused could be apprehended on the spot. On the basis of the said information, the police party conducted raid and one tractor trolley was seen coming from the side of village Mand Chota. On seeing the police party, the driver of the tractor trolley fled leaving behind the tractor trolley filled with sand.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of alleged secret information. No offence under Section 379 of the IPC is made out. Cognizance of offence under Section 21 of the Mines and Minerals (Development and Regulations) Act, 1957 can be taken on the basis of complaint of the authorised person filed in accordance with Section 22 thereof. There are 6 other FIRs against the petitioner but he is on bail in those cases. The petitioner is ready to join the investigation and his custodial interrogation is not necessary for effecting any recovery.

Notice of motion.

Pursuant to supply of advance copy, Mr. Sidakmeet Sandhu, Asstt. A.G., Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 27.10.2020.

Reply with requisite details of the place of alleged mining and relevant documents regarding other cases pending against the petitioner be filed on that date.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall not be entitled to the protection of interim bail allowed to him.

It may be observed here that almost in all cases under the Mines and Minerals (Development and Regulations) Act, 1957 and the Punjab Excise Act, 1914 which have come before this Court regarding conducting of raid by the Punjab Police on the basis of secret information, the offenders were alleged to have fled from the spot at the time of raid. This coincidence in all such cases is very strange and is suggestive of either leakage of information regarding the raid to the offender by some police officer/official or manipulation of record by the police officers/officials conducting the raid who allow the offenders to escape or inefficiency of the raiding police officers/officials in suffering escape of the offenders despite their empowerment by law to use reasonable force for preventing such escape. In any of the above referred eventuality remedial measures are required to be taken for ensuring efficient administration of criminal justice by arrest of the offenders on the spot in case of such raids. Further, in such cases, the police officers/officials are also expected to use audio video electronic means including still/video cameras which are readily available as part of the smart phones possessed even by the police officers/officials but

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such audio video electronic means are not deliberately used for some ulterior motive/extraneous considerations.

In view of the above, the Director General of Police, Punjab is directed to look into the matter personally and issue appropriate instructions for taking of appropriate remedial measures for conducting of such raid with requisite secrecy, co-ordination and communication with the concerned SHO/higher police officers to prevent escape of offenders in such cases.

18.09.2020

kavneet singh

**(ARUN KUMAR TYAGI)
JUDGE**



सत्यमेव जयते

