

Surmu and anr. Versus State CIS No. 2714 of 2021
CNR No. PBHO0100 7606 2021

Present : Sh. Sandeep Sharma Advocate for applicants/accused
Ms. Mandeep Chahal Addl. PP for the State

Record produced. Heard. The instant application under Section 438 Cr.PC is filed by applicants/accused Surmu and Ali Mohammad, seeking anticipatory bail in FIR No. 178 dated 31.10.2021 U/S 21(1) of Mines and Minerals Act, 1957 and U/s 379, 411 IPC 1860, PS : Sadar, Hoshiarpur.

2. It is prayed by the learned counsel for the applicants/accused that the applicants/accused are not named in the FIR and they are nominated on the basis of confessional statement made by co-accused Akashdeep @ Akash. Accused Akashdeep was apprehended at the spot and the alleged recovery stands already effected. He further argued that said Akashdeep has already been granted regular bail by this court vide order dated 9.11.2021. He further submitted that since the alleged recovery stands already effected, the custodial interrogation of applicants/accused is not required in this case and they are ready to join the investigation. Hence, it is prayed that the present bail application may be allowed.

3. On the other hand, the learned Addl. PP for the State has resisted the bail application and submitted that the co-accused Akashdeep was apprehended along with tractor trolley loaded with sand by the police party and he could not produce any document for extracting of sand, hence the mining was done illegally by him. The said accused has named the present applicants/accused and both the applicants/accused are also involved

in the alleged crime. The tractor-trolley in question is the ownership of accused Surmu. Hence, it is prayed that since the applicants/accused are involved in the alleged crime, they are not entitled to anticipatory bail as prayed for and the same may be dismissed.

4. After having heard both the sides and after perusing the record, this court finds that as per version of prosecution, on 31.10.2021, during the course of patrolling and checking duty, the police party reached in the area of village Boothgarh and tractor trolley of Sonalika International without number loaded with sand was apprehended, which was involved in extracting minerals from mines, illegally. The driver of the said tractor trolley disclosed his name as Akashdeep @ Akash, who could not produce any licence/permit with regard to loading of sand in the trolley. The said accused has already been granted regular bail by this court vide order dated 9.11.2021. The present applicants/accused have been named by co-accused Akashdeep in his confessional statement made before the police during interrogation. The recovery has already been effected. The applicants/accused apprehend their arrest in this case, in view of confessional statement alleged to have been made by accused Akashdeep in this case. Keeping in view the aforesaid facts and circumstances of the case, this court deems it a fit case to grant interim bail to the applicants/accused subject to their joining the investigation. Accordingly, the applicants/accused is directed to join the investigation within 7 working days from today, in which event, they shall be released on interim anticipatory bail to his satisfaction by the Investigating Officer/Arresting Officer, subject to the conditions that the applicants/accused shall join the investigation as and

when called by the Investigating Agency, that they shall not leave India without prior permission of the Court and shall not tamper with the prosecution evidence. For report, to come up on 23.11.2021. Police record be returned and be produced on next date of hearing.

Dated: 16.11.2021

baljinder

(Neelam Arora)
Addl. Sessions Judge
Hoshiarpur
UID No. PB0091