

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-32847 of 2019
Date of Decision: 29.10.2019

Hem Raj @ Ram PalPetitioner

VERSUS

State of PunjabRespondent

2. CRM-M-33527 of 2019

Ram PalPetitioner

VERSUS

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Bikramjit Singh Randhawa, Advocate
for the petitioner in CRM-M-32847-2019.

Mr. Sarfraj Hussain, Advocate
for the petitioner in CRM-M-33527-2019.

Mr. Avtar Singh Sandhu, Addl. A.G. Punjab.

SURINDER GUPTA, J.(Oral)

Present petitions have been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to petitioners in case FIR No. 70 dated 18.07.2019 registered for offences punishable under Sections 379, 188 of Indian Penal Code; 21 (1) and 4 (1) of Mines and Minerals (Regulation of Development) Act, 1957, at Police Station Kiratpur Sahib, District Rupnagar.

2. As per case of prosecution, a police party headed by HC Jhujar Singh received a secret information that petitioner-Ram Pal (in CRM-M-33527-2019) with his JCB machine is doing illegal mining in the pits adjoining village Raipur Sahni and was transporting mined material in his

tractor. JCB machine was being driven by petitioner-Ram Pal while petitioner-Hemraj @ Ram Pal was driving the tractor 'Swaraj' and Bishan Dass was driving the tractor 'Sonalika'. A *naka* was held at T-point of village Raipur Sahni, where two tractor-trolleys loaded with bolder/stones and one JCB machine was seen coming behind the tractors. On witnessing the police party, Ram Pal and Hemraj @ Ram Pal (petitioners) ran away from the spot while Bishan Dass (non-applicant) was apprehended. JCB Machine and two tractors loaded with bolder/stones were taken into possession.

3. Learned counsel for petitioners submit that petitioners are not owners of JCB Machine. In fact Ram Pal had taken demarcation of his plot when the police conducted the raid. Recovery has been effected and custodial interrogation of petitioners is not required.

4. Learned State counsel submits that the one tractor recovered in this case is owned by father of petitioner-Hemraj @ Ram Pal. Two tractors loaded with mined material were recovered. Petitioners have indulged in illegal mining despite there being complete ban on mining activities. By their act and conduct they have not only caused grave danger to environment but have also committed offence of doing mining without any licence or permission. The JCB machine recovered by the police was not having any registration number and custodial interrogation of petitioners is required to verify the origin of JCB machine, its title and reasons for its non-registration with the concerned authority.

5. As per allegations, petitioners have indulged in mining activities despite there being complete ban under the orders of District Magistrate. Illegal mining is not only against orders of State but it causes a

huge impact on the environment, eco-system and also causes problems like soil erosion and floods etc. Allegations against petitioners are serious in nature. Petitioners are named in the FIR as they were seen while fleeing from the spot.

6. Keeping in view submissions of learned State counsel and gravity of offence, I find no reason to exercise discretionary powers of this Court to extend the benefit of anticipatory bail to petitioners.

7. These petitions have no merit and the same are dismissed.

October 29, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No