

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

(I) CRM-M-20448-2021 (O&M)

Bhupal @ Bhupal Sharma ...Petitioner

Versus

State of Punjab ...Respondent

(II) CRM-M-22091-2021 (O&M)

Kapil Sharma ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision: 11.10.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vivek Chauhan, Advocate, for the petitioner
in CRM-M-20448-2021.

Mr. S.S.Gill, Advocate, for the petitioner
in CRM-M-22091-2021.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Kehar Singh.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the aforesaid two petitions i.e. CRM-M-20448-2021 filed on behalf of Bhupal @ Bhupal Sharma and CRM-M-22091-2021 filed on behalf of Kapil Sharma, seeking grant of anticipatory bail in respect of a case registered against them vide FIR No.0023 dated 04.04.2021 at Police Station Block Majri, District SAS Nagar (Mohali) under Sections 379/353/186/506/147/149 IPC.

2. The FIR in question was lodged at the instance of Sh. Gurmanpreet Singh Bains, DFO (Divisional Forest Officer) pursuant to an information sent by the Forest Range Officer, Siswan, to the effect that despite an order passed by Hon'ble Punjab & Haryana High Court in CWP No.7022-2021 titled 'Narata Ram & another Vs. State of Punjab & others' for maintaining 'status-quo' regarding cutting of trees and also as regards the lifting of wood i.e. trees which had already been cut from the area measuring 16400 Bighas 18 Biswas situated in Village Mirzapur, Bhupal Sharma, Kapil Sharma and their associates had removed wood loaded in 7 trollies and 1 Pick-up truck on 03.04.2021 during night without seeking approval from the Forest Department. It is further alleged that although officials of the Forest Department had tried to restrain them, but the said persons scuffled with the officials and threatened them and left alongwith *Khair* wood.
3. Learned counsel for the petitioners have submitted that they have falsely been implicated in the instant case and that the instant FIR is infact a counter blast to FIR No.04 dated 31.03.2021 registered at Police Station Vigilance Bureau, F.S.-I, SAS Nagar (Mohali), which the petitioner – Bhupal Sharma has lodged against the officials of the Forest Department, who were pressurizing him and were demanding illegal gratification from him.
4. Learned counsel have further submitted that the petitioner – Bhupal Sharma had duly been issued permits by the Forest Department for the purpose of cutting and removing trees from the area of Village Mirzapur and as such, it cannot be said that any

offence has been committed by the petitioners. It has also been submitted that the officials of the Forest Department have falsely shown the alleged recovery from the godown of the petitioner – Kapil Sharma, whereas in fact the trees had been stored in the premises of the Forest Department itself.

5. Opposing the petition, learned State counsel has submitted that in the instant case, the petitioners apart from having committed the offence of theft had manhandled the officials of the Forest Department, who were on duty and had also committed contempt of Court inasmuch as this Hon'ble Court vide interim order dated 24.03.2021 (Annexure-10) passed in CWP-7022-2021 had directed the parties to maintain status-quo qua the trees and had specifically directed that neither any tree would be cut nor any wood shall be removed from the area in question.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that Forest Department may issue permit in favour of any person/company so as to cut and use trees from forest area for any purpose by way of issuance of the following two separate 'Permits':

(i) Permit for cutting Trees :

While issuing such permit, the Divisional Forest Officer clearly specifies the area from where such person is authorised to cut the trees, the type of trees and the number of trees which such person may cut and the time period during which such exercise of cutting and “conversion” (*process of cutting felled trees into useable sections*) is to be completed, apart from specifying other conditions. The trees, which are so cut, are removed from the forest area and are to supposed be stacked by such permit-holder at Depot/official premises nominated by the Forest Department.

(ii) Export Permit:

The trees, as may have been cut on the basis of aforesaid “Permit to cut trees”, would be stacked after cutting and “conversion”, in Depot/official premises of Forest Department. A separate permit called as “Export Permit” is issued thereafter so as to authorise such permit-holder to export/transport/remove the stacked trees from the Depot/official premises of Forest Department to the premises of the Permit holder so as to enable him to use/sell the same in any manner as he may wish to.

8. Bearing the aforesaid scheme in mind, it would be apt to refer to various permits issued to petitioner Bhupal Sharma from time to time, so as to examine as to whether on the given day i.e. on 03.04.2021, he was authorised to export/transport/remove the trees from the Forest area/Depot. The gist of said permits, as extracted from the Annexures attached with petition and reply, is as under:

18.1.2021: Vide permit No.3 dated 18.01.2021, (Annexure-1 with reply dated 29.9.2021; also as Annexure P-6 with petition), the petitioner Bhupal Sharma was issued “Permit to cut Trees” i.e 933 '*Khair*' trees from area falling in village Mirzapur. The total volume of the logs was 165.95 cubic metres. However, said permit was subject to several conditions, some of which are enumerated below:

Condition no.2: *The exercise of felling and 'conversion' of trees was to be completed by 26.1.2021 and trees so cut were required to be stacked at Depot of Forest department.*

Condition no.10: *The stacked cut material can be lifted by Permit-holder only after issuance of “Export Permit”.*

Condition no.20: *No transportation of timber is to be done after sunset and before sunrise.*

00.00.21: The petitioner, was issued an undated “Export permit” (Annexure-4 with reply dated 29.9.2021), authorising him to export the trees which have been cut by virtue of above mentioned Permit No.3 dated 18.01.2021. Though there appears to be some error as regards the mention of number of trees but the total volume of logs has been correctly mentioned as 165.95 cubic metres, as has been mentioned in Permit No.3 dated 18.01.2021.

30.1.2021: Vide permit No.8 dated 18.01.2021 (Annexure-5 with reply dated 29.9.2021; also as Annexure P-6 with petition), the petitioner Bhupal Sharma was issued “Permit to cut Trees” i.e 964 'Khair' trees from area falling in village Mirzapur. The total volume of the logs was 165.20 cubic metres. However, said permit was subject to several conditions, some of which are enumerated below:

Condition no.2: *The exercise of felling and 'conversion' of trees was to be completed by 15.03.2021 and trees so cut were required to be stacked at Depot of Forest department.*

Condition no.10: *The stacked cut material can be lifted by Permit-holder only after issuance of “Export Permit”.*

Condition no.20: *No transportation of timber is to be done after sunset and before sunrise.*

15.3.2021: The petitioner Bhupal Sharma moved an application to DFO, SAS Nagar, requesting him for extension of time limit of “Export permit” no. 6684 dated 2.03.2021 from 15.03.2021 to 31.03.2021. (Annexure-6 with reply dated 29.9.2021)

16.3.2021: Vide letter no. 7152 dated 16.03.2021, the DFO, SAS Nagar, ordered that “*time limit for removal be increased to 31.03.2021*”, without specifying the details of the permit in respect of which such extension has been granted. (Annexure-7 with reply dated 29.9.2021)

22.9.2021: Vide letter no. 3970 dated 22.09.2021, the successor DFO, SAS Nagar asked for clarification from his predecessor i.e. DFO Rupnagar (where the predecessor stood transferred to) as to whether any Export Permit was issued to petitioner Bhupal Sharma or not since the record did not reflect issuance of any export permit against tree cutting Permit no. 8 dated 30.1.2021, but in letter dated 15.3.2021 written by petitioner he had referred to some "Export permit" no. 6684 dated 2.03.2021 and had made a request for extension of time limit which had been extended by DFO Rupnagar (while posted earlier as DFO, SAS Nagar) (Annexure-8 with reply dated 29.9.2021)

22.9.2021: In reply to above referred letter no. 3970 dated 22.9.2021, DFO Rupnagar stated that no "Export permit" no. 6684 dated 2.03.2021 had ever been issued to petitioner Bhupal Sharma and that petitioner had stated incorrectly in this regard in his application dated 15.3.2021 seeking extension of time limit. DFO Rupnagar further clarified that it is the time limit for "*conversion of felled material*", which had been extended upto 31.3.2021. (Annexure-9 with reply dated 29.9.2021)

9. Although the learned counsel for the petitioners have vehemently argued that they had been issued valid permits by the Forest Department in respect of the area in question i.e. Village Mirzapur, but a perusal of the said permits would show that the initial permit was issued to the petitioner - Bhupal Sharma on 18.01.2021 allowing the petitioner to cut 933 trees and the said permit was valid only upto 26.01.2021 and the entire task was to be completed by the said date and the trees were to be stacked at the Depot by 26.01.2021. As against said tree cutting permit dated 18.01.2021, the petitioner was also issued an Export Permit (Annexure-4).

Thereafter, vide permit dated 30.01.2021, the petitioner – Bhupal Sharma had been permitted to cut 964 trees and to stack the same at the Depot by 15.03.2021. Subsequently, vide letter dated 16.03.2021, the said period of stacking the material was extended upto 31.03.2021. However, no Export permit was ever issued to the petitioner against tree cutting permit dated 30.01.2021, as stands clarified from letter dated 22.09.2021 of DFO, SAS Nagar (Annexure-8) and another letter of even date sent in reply by DFO, Rupnagar (Annexure-9).

10. Even if, for the sake of arguments, it is presumed that the petitioner did have some Export permit and that its validity had been extended upto 31.03.2021, still the same would not help the petitioners, as the trees had been removed on 03.04.2021 i.e. after 31.03.2021, when any such permit would have expired.
11. Still further, this Court had passed the following order on 24.03.2021 in CWP No.7022-2021, pertaining to the forest area in question:

“The matter has been taken up through Video conferencing on account of outbreak of pandemic COVID-19.

Heard.

Notice of motion for 06.04.2021.

In the meanwhile, parties shall maintain status quo qua the trees subject matter of this writ petition and there will not be any cutting/lifting of wood from the area in question.”

12. The petitioners cannot feign ignorance about the aforesaid order passed by this Court, but despite the same chose to remove the trees from the area of Village Mirzapur and the said trees were found in the godown of the petitioner – Kapil Sharma. The

petitioners neither had any valid permit on 03.04.2021 to remove the trees and nor were supposed to remove the same on account of the order dated 24.03.2021 passed by this Court.

13. It may here be mentioned that the petitioner in CRM-M-22091-2021, namely, Kapil Sharma is none else, but the brother of the petitioner in CRM-M-20448-2021, namely, Bhupal Sharma and has been working as a Contractor for him. Since a huge number of wooden logs i.e. 375 logs, apart from 4 Quintals of fire wood was recovered, the complicity of the petitioners is clearly evident. The petitioners chose to remove the wooden logs during “night” time and that too despite their being no Export permit and despite a stay having been granted by this Court. The occurrence is also stated to have been captured in CCTV cameras. The petitioners are also stated to be previous offenders and there have been several instances of violations.
14. In these circumstances, no special case for grant of anticipatory bail to the petitioners is made out. Both the petitions are sans merit and are hereby dismissed.
15. A photocopy of this order be placed on the connected file.
16. Before parting with this order, this Court deems apt to observe that application dated 15.03.2021 (Annexure-6 with reply dated 29.9.2021), moved by the petitioner Bhupal Sharma to DFO, SAS Nagar, requesting him for extension of time-limit of “Export permit” No. 6684 dated 02.03.2021 from 15.03.2021 to 31.03.2021, has been processed in a cavalier manner. While according extension of time-limit of the so called “Export Permit

No.6684 dated 2.03.2021”, nobody seems to have verified as to whether any such permit had ever been issued. As such, the Principal Chief Conservator of Forests, Punjab is directed to get a thorough probe conducted by a Committee to be constituted by him, comprising of three senior ranking officers of the department. The Committee shall examine the procedure adopted in the case in hand for extending time-limit and shall report as to whether the same is in accordance with rules and settled procedure. The Committee shall examine as to why the factum of there being no 'Export permit' in favour of petitioner Bhupal Sharma has been overlooked and as to why, while granting extension, there is no reference to any particulars of permit i.e. any number or date of permit which is being extended. It be examined as to whether such omissions are just on account of carelessness and incompetency or as to whether there has been an intentional omission to extend undue benefit to Bhupal Sharma. Since the entire exercise would mainly be based on documents maintained in the department itself, which would be easily available as the matter is not very old, the entire exercise be completed within four weeks and report be submitted to Chief Conservator of Forests, Punjab, immediately thereafter, who shall take necessary action as may be warranted in view of such report and facts and circumstances of the matter.

(GURVINDER SINGH GILL)
JUDGE

11.10.2021

Vimal

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No