

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.4482 of 2022 (O&M)
Date of Decision.03.02.2022
(Heard through VC)

Vijay Kumar

...Petitioner

Vs

State of Haryana

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sachin Luthra, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

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JAISHREE THAKUR J. (ORAL)

1. The petitioner is seeking anticipatory bail by way of this petition filed under Section 438 Cr.P.C. in FIR No. 136 dated 14.07.2021 under Sections 186, 189, 332, 379-A, 506, 34, 120 B IPC registered at Police Station Shahzadpur, District Ambala, Haryana.

2. In brief, the facts are that an FIR was registered at the behest of Roshan Lal, Mining Officer, Mining and Zoological Department, Ambala on an allegation that he received information on 13.07.2021 at about 6:30 PM regarding illegal mining being done in Begna river. On receipt of information, he constituted a team including Driver Deepak Kumar, Head Constable Pawan Kumar, Constable Parvinder Kumar and Vipranpreet Singh-Driver. They reached the spot in government vehicles and found that one Sonalika tractor without a registration number along with trailer was loaded by sand and another trailer was also loaded with sand lying in Begna river and two persons namely Vijay and Shivam @Ashu were standing

there by the side of the tractor trailer, who represented themselves to be the driver and owner respectively. The said persons were unable to show any document/permission regarding mining of sand. The tractor and trailer was seized and taken into possession at the spot itself, and when the mining team was taking the seized trailers to the police station, then Vijay and other persons gathered at the spot started arguing and manhandling the members of the mining team. One person namely Shivam @Ashu, who was present there, was armed with iron pipe. Vijay and the said Shivam @ Ashu threw the complainant from the tractor and fled away from the spot along with seized tractor-trailer, however, the other trailer loaded with sand was brought to the police station by the mining team and a complaint was filed, leading to the registration of the FIR.

3. Mr. Luthra, learned counsel appearing on behalf of the petitioner-Vijay herein contends false implication by arguing that he is neither the owner of the tractor nor the trailer and in fact, is just the labour engaged by the main accused Shivam. He would rely upon a card issued by the Government of India, Ministry of Labour And Employment to show that his primary occupation is that of a helper/worker. It is contended that the main accused Shivam alias Ashu has already been released on regular bail by the court and no purpose would be served in arresting the petitioner herein as no recoveries are to be effected from him. It is also contended that the petitioner herein is ready to join investigation.

4. The petition for anticipatory bail is opposed by the counsel appearing on behalf of the respondent-State by contending that Vijay was the driver of the tractor and in fact, he pushed the complainant off the mudguard of Sonilika tractor, when the same was in the possession of the

mining team and was being driven to the police station. After pushing the complainant off the mudguard, he drove the tractor and the attached trolley loaded with sand away. It is submitted that the investigation in the matter is still incomplete as one Jagdish, who is stated to be the actual owner of the tractor, is yet to be arrested. Apart from that, the petitioner herein was found at the spot and actively involved in illegal mining.

5. I have heard learned counsel for the parties and find no ground to allow anticipatory bail to the petitioner herein, primarily on the ground that allegedly the petitioner herein was found at the spot, actively engaged in illegal mining. The complainant had received information about illegal mining and when he reached the spot along with the mining team so constituted, it was found that the petitioner herein along with another were besides the tractor loaded with sand and there was another trailer, which was also loaded with sand. The petitioner and the co-accused had no permission to mine the sand. The petitioner also scuffled with the mining team and pushed a government official off the tractor in an effort to drive away from the spot, which he succeeded in doing. No ground is made out to allow anticipatory bail in such a matter. Releasing the petitioner will hamper the investigation and the possibility of the petitioner fleeing cannot be ruled out.

6. Consequently, the instant petition is dismissed. However any observations made herein are not to be construed as opinion on the merits of the case.

(JAISHREE THAKUR)
JUDGE

February 03, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No