

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

CRM-M-33587-2022 (O&M)
Date of Decision:- 2.11.2022

Jaswinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Mansur Ali, Advocate and
Mr. Imran Ali, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Pawan Kumar.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered against him vide FIR No. 80 dated 9.7.2022 under Sections 21(1), 4(1) of the Mines and Minerals (Regulation of Development) Act, 1957 IPC at Police Station Nurpur Bedi, District Rupnagar.
2. As per the case of prosecution on 09.07.2022 a written complaint was moved by complainant-Junior Engineer-cum-Mining Inspector, Sri Anandpur Sahib, to Station House Officer, Nurpur Bedi, wherein it was mentioned by the complainant that on 09.07.2022, he inspected the premises of BNW Screening Plant at village Bainhara, belongs to Jaswinder Singh (petitioner) and found that though the crusher was not functioning at the time of his inspection, however, 11415 Cubic feet of processed material was lying at the premises of BNW Screening Plant. It is further alleged that out of the said processed material, 1520 cubic feet was 'Gatka' (stone between of size 08

mm to 20 mm), 2356 cubic feet was '*bajri*' (less than 08mm) and 7540 cubic feet was sand which was lying at the spot. It was further alleged by complainant that about 2 acres away from the crusher, deep digging and extraction of mining material was found to have been carried out with machine and on measuring the same it was found to be about 1,25,100 Cubic Feet. However, the ownership of the land from where the digging had been carried out was required to be verified from revenue department. It was also mentioned in the complaint by the complainant-Junior Engineer-cum-Mining Inspector, Sri Anandpur Sahib that the generator found at the spot was of make Ashoka Leyland and having Engine No. ZBHM151844.

3. The learned counsel for the petitioner has submitted that admittedly the crusher where the '*Gatka*', '*Bajri*' and sand were found was not operational and infact it is a case where the petitioner, who was undertaking construction of a building adjacent to his house in the village had stored the said building material at the said crusher which belongs to petitioner. The learned counsel has referred to the photographs (Annexure P-1) of his house where construction is being undertaken. The learned counsel has next submitted that all the construction material in the shape of '*Gatka*', '*Bajri*' and sand as found at the crusher had been duly purchased by the petitioner from M/s Vishal Stone Crusher against receipts which are annexed with the petition as Annexure P-2.
4. The learned counsel has further submitted that the petitioner cannot, in any manner, be connected with any excavation undertaken in the fields adjoining to the crusher of the petitioner as the said land does not belong to the petitioner. A prayer has, thus, been made for grant of anticipatory bail.

5. Opposing the petition, the learned State counsel has submitted that the plea of the petitioner regarding storing construction material at his crusher is not acceptable since the same is about one kilometer away from the construction site i.e. the house of the petitioner and that in case the petitioner had purchased the said construction material, he would have stored the same at the site of construction itself and not at any other place as the same would entail additional transportation cost for getting the construction material from crusher to the construction site. The learned State counsel has submitted that no authenticity can be attached to the receipts annexed with the petition, stated to have been issued by M/s Vishal Stone Crusher, as the same have apparently been procured after registration of the case so as to set up a defence. The learned State counsel has also informed that the petitioner is a habitual offender, having been involved in as many as 10 cases, though he does stand acquitted in 5 of such cases, the details of which have been mentioned in para 6 of the preliminary submissions in the reply filed by the State.
6. This Court has considered rival submissions addressed before this Court.
7. It is not in dispute that the premises from where '*Gatka*', '*Bajri*' and sand were recovered are owned by the petitioner and are situated at a distance of about one kilometer away from the site where construction is being undertaken adjacent to his house. A perusal of the photographs (Annexure P-1) annexed with the petition would indicate that the construction is not on the entire area of the plot and there is sufficient space to store the building material. In such circumstances, the contention of the petitioner that he had stored the building material about one kilometer away after having purchased the same from M/s Vishal Stone Crusher does not appeal to

reason inasmuch as storing the said building material after purchasing the same from a vendor and thereafter transporting the same again to the site of building will entail additional cost, which no sane person would like to incur. Further, the quantity of building material particularly the '*Gatka*' found at the site of crusher is a quantity which would normally be not required for undertaking construction as small as indicated in the photographs annexed with the petition, as '*Gatka*' is used only in the foundation of a building. Though at this stage the prosecution may not be able to connect the petitioner with the excavation/digging made in the plot adjacent to the site of crusher, but the presence of a substantial quantity of '*Gatka*', '*Bajri*' and sand as is also depicted in the photographs annexed with the reply filed by the State does tend to indicate that the same is a result of illegal mining.

8. Though, the petitioner has attempted to justify his possession of the building material by putting forth a case that he had purchased the same from M/s Vishal Stone Crusher but a closer scrutiny of the said bills annexed as Annexure P-2 with the petition show that the same had been procured subsequently. It is worthwhile to notice the following facts pertaining to the dates when the bills had been issued and also the serial number of the said bills :-

Sr. No.	Date	Number of Truck-loads supplied	Registration number of Truck	Bill
1.	19.6.2022	5	PB12N-3853	459 460 461 462 463
2.	20.6.2022	1	PB12N-3853	464
3.	21.6.2022	2	PB65-0338 PB65-0338	465 466

4.	23.6.2022	2	PB12N-3853	467
			PB65-0338	468

9. A perusal of the aforesaid bills would indicate that during the period of five days w.e.f. 19.6.2022 to 23.6.2022, M/s Vishal Stone Crusher has sold the building material to only one customer i.e. the petitioner. While on 19.6.2022, as many as 5 truck loads of building material were sold to the petitioner, on 20.6.2022, during the entire day only one truck load of building material was sold by vendor as only one bill has been issued during entire day i.e. Bill No. 464 and the next bill bearing serial No. 465 was issued on next day. It is rather surprising that M/s Vishal Stone Crusher does not have any customer other than the petitioner as all the bills issued by M/s Vishal Stone Crusher to the petitioner during five days are in seriatim i.e. in continuity from 459 to 468 and no bill has been issued to any other customer. Though, during the course of arguments, the learned counsel for the petitioner vehemently argued that GST had been duly paid in respect of the said bills and as such authenticity of bills cannot be disputed but it is well known that the GST collected by a vendor is not deposited on day-to-day basis with the authorities concerned and as such the fact that the bills also include a component of GST would not advance the case of the petitioner in any manner. The serial numbers of the bills issued during five days which are all in continuity and issued only to the petitioner and to no other customer over a period of five days clearly shows that the said bills are procured ones.
10. The petitioner, otherwise, has a chequered record having been involved in 10 other cases, the details of which have been mentioned in the reply filed by the State, which are reproduced herein under:-

Sr. No.	Registered FIR/Case	Present Status of the FIR/case
1	FIR No.49 dated 21.10.2005, U/S 323, 324, 326, 341, 34 IPC, PS Nurpur Bedi, District Rupnagar.	Acquitted on 20.1.2014
2	FIR No.63 dated 09.06.2014 U/S 188 of IPC, 21(1) MMDR Act, 1957, PS Nurpur Bedi, District Rupnagar.	Convicted on 5.1.2022
3	FIR No.164 dated 06.11.2014, U/S 379, 188 of IPC, 21(1) MMDR Act, 1957, PS Nurpur Bedi, District Rupnagar.	Disposed of on 25.11.2021
4	FIR No.52 dated 05.05.2015, U/S 379, 188 of IPC, 21(1) MMDR Act, 1957, PS Nurpur Bedi, District Rupnagar.	Acquitted on 31.1.2020
5	FIR No.29 dated 22.03.2017 U/S 379, 188 of IPC, 21(1) MMDR Act, 1957, PS Nurpur Bedi, District Rupnagar.	Under trial
6	FIR No.73 dated 21.06.2018 U/S 307, 295-A, 353, 186, 148,149 of IPC, 25 Arms Act, PS Nurpur Bedi, District Rupnagar.	Under trial
7	FIR No.46 dated 28.08.2003, U/S 341, 506, 323, 148, 149 of IPC, PS Nurpur Bedi, (Ropar).	Acquitted on 17.03.2011.
8	FIR No.56 dated 28.11.2005, U/S 341, 323, 506, 148, 149 of IPC, PS Nurpur Bedi, District Rupnagar	Acquitted on 8.10.2008
9	FIR No.5 dated 29.01.2004, U/S 452, 323, 324, 148, 149 of IPC, PS Nurpur Bedi, District Rupnagar.	Acquitted on 27.3.2012
10	FIR No.32 dated 27.04.2008, U/s 302, 120-B, 148, 149 of IPC, 25 Arms Act, PS Nurpur Bedi, District Rupnagar.	Acquitted on 15.6.2011

11. In view of the aforesaid discussion, this Court does not find any special case for grant of anticipatory bail. The petition is sans merit and is hereby dismissed.

2.11.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No