

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

CRM-M No.48171 of 2021

Date of Decision: 31-01-2022

Denish Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Robin Dutt, Advocate
for the petitioner.

Ms. Samina Dhir Deputy Advocate General, Punjab.

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case pertaining to the FIR bearing No.69 dated 12.05.2021 registered at Police Station Balachaur, District Shaheed Bhagat Singh Nagar, under Sections 21(1), 4(1) of the Mine and Minerals (RD) Act, 1957 (for short 'the Act of 1957') wherein the offences under Sections 465, 468 & 471 IPC are stated to have been added later-on, the petitioner has preferred this petition for seeking the relief of anticipatory bail.

Bereft of unnecessary details, the allegations, as levelled in the subject FIR, are that on receipt of a secret information regarding the illegal mining being carried out in village Mansewal, the police party, headed by ASI Darshan Lal, started for the spot and on their way, they noticed a

tractor coming with a trolley, loaded with sand, attached to it. On seeing the police party, the driver fled away from the spot leaving the tractor and the trolley there. Initially, the FIR was registered under the afore-detailed provisions of the Act of 1957.

Status-report has already been filed on behalf of the respondent-State by way of the affidavit of Deputy Superintendent of Police, Sub-Division Balachaur, District S.B.S.Nagar and it has been categorically mentioned therein that Kulwinder Singh, the driver of the said tractor, was joined in the investigation and he allegedly disclosed that the petitioner was the owner of the said tractor and the sand had been loaded in the trolley at his (petitioner's) instance. He also produced the Bill, purported to have been issued by Bharat Stone Crusher, Village Plata, Tehsil Anandpur Sahib. Though the petitioner was, earlier, granted the relief of anticipatory bail by the Court below but subsequently, the afore-mentioned Bill was found to be a fake/forged one and resultantly, the offences under Sections 465, 468 and 471 IPC were also invoked in the case and the application, as moved by the petitioner afresh before the Court below to seek the relief of pre-arrest bail after the addition of the above-said offences, has been dismissed.

I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioner has contended that the petitioner was initially granted the relief of pre-arrest bail for the offences

under the Act of 1957 and he never misused this concession and the afore-said offences under the IPC have been added in the case subsequently and in these circumstances, he (petitioner) deserves the relief as prayed for in the present petition. To buttress his contentions, he has placed reliance upon **Gurbaksh Singh Sibbia and Ors. vs. State of Punjab, AIR 1980 SC 1632; Siddharth vs. The State of Uttar Pradesh & Anr. Criminal Appeal No.838 of 2021 (Arising out of SLP (Crl.) No.5442/2021)** and **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors. AIR 2011 SC 312.**

Per-contra, learned State counsel has argued that though, the petitioner was earlier granted the concession of anticipatory bail but he is the owner of afore-said tractor and trolley and the Bill, as presented qua the sand loaded in the trolley, has been found to be forged and keeping in view the gravity of the offence committed by him, this petition be dismissed.

The petitioner is the owner of the tractor as well as the trolley allegedly found to be loaded with sand. It has categorically been deposed in para No. 5 of the Status-report that Balvir Chand, who was running the above-said Stone Crusher on lease, had made a statement to the effect that he did not issue the above-said Bill and that the offences under Sections 465, 468 and 471 IPC were added in the case in view of this fact. It being so, the possibility of the requirement of the custodial interrogation of the petitioner so as to elicit the truth qua the *modus-operandi* adopted for procuring/preparing the said Bill, cannot be ruled out.

Moreover, illegal mining seems to be rampant in the State and the same, besides causing loss to the State exchequer, leads to ecological

imbalance posing grave threat to the environment of the region and it needs to be dealt with sternly so that we may not pass on the resultant serious health hazards to our future generations, in legacy.

The observations, as made by the Hon'ble Supreme Court in Gurbaksh Singh Sibbia & Ors (supra), Siddharth (supra) and Siddharam Satlingappa Mhetre (supra), are of no avail to the petitioner because in Gurbaksh Singh Sibbia and Ors (supra) and Siddharam Satlingappa Mhetre (supra), certain guidelines have been laid down for adjudicating the prayer for anticipatory bail and even in the light of the same, the petitioner does not deserve the above-said relief in view of the facts and circumstances of the instant case as discussed in the preceding paragraphs. Then, in Siddharth (supra), the offender had joined in the investigation and the Challan was to be presented in the Court and his arrest memo had been issued whereas it is not so in the present case.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory bail. Resultantly, the petition in hand stands dismissed accordingly.

31st January, 2022
Seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No