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

**CRM-M-44999-2022
Date of Decision: 28.09.2022**

Satnam Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Gupta, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.87, dated 14.06.2022, under Sections 379 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 registered at Police Station Sirhali, District Tarn Taran.

It has been submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case since he had only given his JCB machine to one co-accused, namely, Sukhwinder Singh and he was not involved in the present offence.

The present FIR was lodged on the basis of information received by the police through a secret informer that when he reached village Chambal along with police party, then he saw a JCB machine and three tractor trolleys digging soil+sand (mix) on the spot. Upon seeing the police party, the drivers of the tractor trolleys and JCB machine escaped from the spot. JCB and other tractor trolleys were seized by the police and

three tractor trolleys were being brought to Sarhali Police Station by ASI Harjinder Singh and some other police personnel, who left for the care of JCB at the spot. The trolleys were found filled with mix. One tractor make Swaraj and second one Sonalika without number plate and third tractor make Swaraj without number plate were having around 800 feet of sand and clay mix in the trolleys, digging of which is illegal under Punjab Mining Minerals Rules 2013 and under Section 21(1) of MMDR 1957. Thereafter, the police party reached at the spot from where the earth was being dug and it was found that the large amount of soil and sand was removed from the ground at the spot, which was about 26 tons each. The quantity was also measured in this regard.

On the other hand, Mr. Amit Rana, learned Sr. Deputy Advocate General, Punjab, has stated that he has received an advance copy of the present petition and has gone through the same and has also got instructions from the concerned police official, who is present in the Court. He submitted that it is a case where three tractor trolleys were confiscated having sand and minerals which were illegally dug. He further submitted that from the aforesaid three tractor trolleys, two tractor trolleys belonged to the present petitioner and other one belonged to the brother of the petitioner and another JCB machine which was used for digging the soil also belonged to the petitioner and rather two tractor trolleys were not having any number plate. He also submitted that on further investigation it was found on the basis of the statement made by the aforesaid Sukhwinder Singh that the petitioner had taken the land on lease from him, from where, the digging process was done and on the spot it was found that a large amount of sand

was removed. He further submitted that illegal mining in the State of Punjab is rampant, and therefore, in the facts and circumstances of the present case, the custodial investigation of the petitioner is required for the purpose of elicitation of truth and for qualitative interrogation.

I have heard the learned counsel for the parties.

The allegations were pertaining to illegal mining wherein three tractor trolleys, out of which, two were not having any number plate along with one JCB machine were confiscated on the spot. The place from where the soil was dug was also inspected by the police party in this regard. So far as the argument raised by the learned State Counsel that the land was given on lease by the aforesaid Sukhwinder Singh to the petitioner is concerned, the same was disputed by the learned counsel for the petitioner at the time of arguments.

This Court does not wish to go into the merits of the aforesaid controversy regarding validity of lease, if any, but this Court would certainly consider the fact that out of three confiscated tractor trolleys, two belonged to the petitioner and one belonged to the brother of the petitioner and there were no number plates on two tractor trolleys. Apart from the same, it is also not disputed that the JCB machine which was used in the offence belonged to the petitioner. The argument raised by the learned State counsel that for the purpose of elicitation of truth and the fact that illegal sand mining is rampant in the State of Punjab which needs to be checked and for that purpose, the custodial interrogation of the petitioner is required, does carry weight and cannot be ignored particularly considering the aforesaid facts and circumstances of the case. The Hon'ble Supreme Court

in “*State Represented by C.B.I. Vs. Anil Sharma*”, (1997) 7 SCC 187

observed that in some cases for the purpose of qualitative interrogation and elicitation of truth where custodial investigation is required, then the anticipatory bail may not be granted, considering the facts and circumstances of each and every case.

Therefore, in view of the aforesaid facts and circumstances, this Court is of the view that the petitioner does not deserve the concession of anticipatory bail. Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

Before parting with the judgment, this Court would also look into the order passed by the learned Additional Sessions Judge, Tarn Taran on 19.09.2022. By the aforesaid order, when the petitioner filed an application for anticipatory bail, the same was dismissed by way of a short/small order consisting of six lines. The order does not spell out what were the facts of the case and why the petitioner was not entitled for the grant of anticipatory bail nor any reason has been given. Whenever an application for bail, be it be a regular bail or an anticipatory bail is filed, it is incumbent upon the Court to apply mind after considering the facts and circumstances of the case and at least some *prima facie* reason has to be given if not in detail without discussing the evidence as to why a person is either entitled or not entitled for bail. Such kind of order dated 19.09.2022 is totally cryptic and perverse order.

In view of the above, it is directed that the present order be sent to the concerned Administrative Judge of District Tarn Taran for information purposes only.

28.09.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |