

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

207

**CRM-M-49454-2022
Decided on : 01.11.2022**

Balraj Singh alias Batta

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Nirmal Singh, in-person
(father of petitioner Balraj Singh alias Batta).

ASI Mohan Chand.

SANJAY VASHISTH, J. (Oral):

Members of the Bar are abstaining from work today.

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Balraj Singh @ Batta, who has been booked for having committed the offence punishable under Sections 21(1) of the Mines and Minerals (Regulation and Development) Act, 1957 and Section 379, 411 of IPC, 1860, in FIR No. 28, dated 04.04.2022, registered at Police Station Haryana, District Hoshiarpur, during the pendency of trial.

This Court has examined the complete petition along with attached documents, and has also sought the assistance of the Police Officer/Investigating Officer namely ASI Mohan Chand, who is present along with police file of the case.

FIR No.28, dated 04.04.2022, was registered against the unknown persons. Initially, some telephonic information was received by ASI Paramjeet Singh, in regard to the stealing of sand by violating the

provisions of Section 21(1) of the Mines and Minerals (Regulation and Development) Act, 1957 (in short 'the Act'). Accordingly, ASI Paramjeet Singh reached on the informed place and one trolley of yellow colour was recovered in Choe (Kanal) of Village Khunde. In FIR, it is recorded that driver had run away from the spot, and on checking, no legal document of weighment slip regarding loaded sand in this trolley was found.

It is further averred in the petition that during investigation, some special informant informed the name of the petitioner Balraj Singh @ Batta, and accordingly, same was recorded vide GD No. 27, dated 16.04.2022, and petitioner was arrested on 10.06.2022. Thus, petitioner has been made accused in the FIR for the offence committed under Section 21(1) of the Act and Sections 379, 411 of IPC, registered at Police Station Haryana, District Hoshiarpur.

This Court has also perused the legal provision reproduced in the petition that Section 23-A of the Act of 1957, enables the concerned accused to compound the offence. Apart this, plea has been taken that as per Section 22 of the Act, a complaint was required to be filed in Court.

This Court has also noticed the details given in paragraph No.12 of the present petition regarding registration of other FIRs against the petitioner at one Police Station only, i.e. Police Station Haryana, District Hoshiarpur. Said table is reproduced hereinbelow:-

S.N.	FIR No., DATE, SECTION, P.S. AND DISTRICT	BAIL STATUS
1	FIR No.31, dated 28.4.2010, u/s 324, 341, 323, 148, 149 IPC, PS Haryana, Hoshiarpur	Bail granted vide order dated 19.09.2022. Copy appended as Annexure P-2.
2	FIR No.35, dated 21.5.2013, u/s 324, 452, 341, 323, 148, 149 IPC, PS Haryana, Hoshiarpur.	Convicted vide judgment dated 12.02.2019. Appeal against conviction pending for 10.11.2022 and sentence suspended.
3	FIR No.15, dated 21.3.2014, u/s 324, 326, 506, 148, 149 IPC, PS Haryana, Hoshiarpur.	Convicted vide judgment dated 29.01.2019. Appeal against conviction pending for 19.10.2022 and sentence

		suspended.
4	FIR No.18, dated 10.3.2017, u/s 61/1/14 Excise Act, PS Haryana, Hoshiarpur.	Convicted vide judgment dated 31.08.2019 and released on probation.
5	FIR No. 7, dated 18.2.2019, u/s 21(1) Mines and Minerals Act, PS Haryana, Hoshiarpur.	Bail granted vide order dated 28.01.2019. Copy appended as Annexure P-3.
6	FIR No. 46, dated 25.4.2019, u/s 353, 186, 506, 148, 149 IPC, PS Haryana, Hoshiarpur.	Bail granted vide order dated 10.09.2019. Copy appended as Annexure P-4.
7	FIR No. 20, dated 25.2.2020, u/s 323, 324, 379, 506, 451, 148, 149 IPC, PS Haryana, Hoshiarpur.	Acquitted vide judgment dated 04.07.2020.
8	FIR No. 112, dated 12.6.2021 u/s 379, 411 IPC, 21(1) Mines and Mineral Act, PS Haryana, Hoshiarpur.	Bail granted vide order dated 17.06.2021. Copy appended as Annexure P-5.
9	FIR No. 55, dated 29.05.2022, u/s 307, 452, 506, 148, 149 IPC & Section 25/27/54/59 of Arms Act, PS Haryana, Hoshiarpur.	Bail granted vide order dated 26.09.2022. Copy appended as Annexure P-6.

From the details of other cases, it is also noticed that all the previous cases right from the year 2010 are registered at Police Station Haryana, District Hoshiarpur, which shows that petitioner was already known to the police officials of the Police Station Haryana, where, a new case i.e. present one, has also been registered against the petitioner.

Broadly speaking, petitioner has pleaded that there is no link evidence to connect the petitioner with the alleged crime.

On this issue, ASI Mohan Chand, who is present in Court with police file of the case, is also unable to cite any special evidence against the petitioner. However, he submits that after completion of investigation, challan has already been submitted to the concerned Court.

It is also noticed that in the FIR, no where, it is mentioned that said trolley was attached with which vehicle. Undoubtedly, trolley cannot move on its own without it being attached to the tractor or any other vehicle, to pull forward. Even it is not mentioned that accused, who ran away on seeing the police party, succeeded in fleeing on his foot or some vehicle.

It is also noticed that ASI Mohan Chand also confirms that

petitioner is inside jail since 10.06.2022 in the present case, and trial is yet to commence.

Considering all the circumstances noticed hereinabove, and the fact that investigation has already been completed and completion of trial would certainly take considerable time, this Court is of the view that plea of bail of the petitioner is worth considerable at this stage.

Accordingly, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

Observation made hereinabove shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

November 01, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*