

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-9477-2023

Date of Decision : March 15, 2023

Sohan Singh		Petitioner
	vs.	
State of Punjab		Respondent

Case No. : CRM-M-10439-2023

Date of Decision : March 15, 2023

Ram Rattan		Petitioner
	vs.	
State of Punjab		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Davinder Singh, Advocate
for the petitioner (in both cases).

Mr. J. S. Bhandari, AAG, Punjab (in both cases).

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GURBIR SINGH, J. :

Vide this common order, two petitions i.e. **CRM-M- 9477-2023** and **CRM-M-10439-2023**, shall be disposed of as both these petitions arise out of the same FIR bearing No.15 dated 24.01.2023, under Sections 4(1), 21(1) of Mines and Minerals (Regulation of Development) Act, 1957, registered at Police Station Nurpur Bedi, District Rupnagar. Both these petitions have been filed by two different persons seeking concession of anticipatory bail in the aforesaid FIR.

Status Reports in both the cases, by way of affidavit of Ajay Singh, PPS, Deputy Superintendent of Police, Sri Anandpur Sahib, District

Rupnagar, on behalf of respondent-State of Punjab, have been filed in Court today, which are ordered to be taken on record.

As per allegations, complaint was filed by Junior Engineer (JE), Water Resources-cum-Mining Sub Division, Nurpur Bedi and as per information received on phone regarding illegal mining, the Kalma Chowki Incharge reached at the spot. One Poclain Machine (JCB) and one loaded Tipper were taken into possession and case was registered.

Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated. They are not, in any way, involved in illegal mining. The petitioners were not named in the FIR. They were not present at the spot.

Learned counsel for the petitioners, relying on **Ganesh Raj vs. State of Rajasthan – 2005(3) RCR (Criminal) 30**, has submitted that it was held by a Full Bench of the Rajasthan High Court that while considering the application for anticipatory bail, the Court has to make an effort to strike a balance between the individual rights to personal freedom and the investigational rights of the police.

Learned State counsel, on the other hand, has opposed both the petitions, submitting that the Poclain Machine make JCB, recovered in the instant case, was owned by petitioner Sohan Singh. During investigation, it transpired that the Poclain Machine make JCB was earlier owned by Tarlochan Singh, who was Proprietor of Satguru Stone Crusher, Village Nangran, who had sold the machine to the petitioner Sohan Singh on 02.08.2021. Similarly, the Tipper make AMW bearing registration No.PB-12-Q-3700 was found registered in the name of Rana Enterprises, owned by

one Rakesh Kumar and the same was purchased by one Surjit Singh, who later sold the same to petitioner Ram Rattan and petitioner Ram Rattan was using the same. Affidavit to that effect was also taken into possession during investigation. The petitioner Ram Rattan is using the said Tipper w.e.f. 15.12.2021 i.e. from the date of purchase.

Learned State counsel further apprised this Court that two more cases were also registered against petitioner Sohan Singh. Therefore, custodial interrogation of the petitioners is required.

Learned counsel for the petitioners has submitted that a case under Section 279, 304-A, 427 IPC was registered against petitioner Sohan Singh but he was acquitted in that case long time back. One case under Section 174-A IPC is pending against him which had arisen in the complaint case.

Heard.

The petitioners were not arrested at the spot. The recovery has already been effected. Petitioners are not registered owners of the vehicles. They purchased the said vehicles. It is question of investigation if petitioners were themselves using these vehicles on the day of occurrence or these were being used by someone else. The custodial interrogation of the petitioners is not required at all.

Accordingly, the petitioners are directed to join investigation as and when so required by the Investigating Agency. In the event of petitioners joining investigation, they shall be admitted to bail by the Arresting Officer/Investigating Officer on furnishing of bail bonds/surety bonds by them to the satisfaction of the Arresting Officer/Investigating

Officer. The petitioners shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

A photocopy of this judgment be placed on the file of other connected matter.

March 15, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.