

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

**CRM-M-15606-2023
DECIDED ON: 28.03.2023**

JAGDISH SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ramesh Sharma, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this court under Section 438 of the Code of Criminal Procedure, 1973 has been invoked for the grant of anticipatory bail to the petitioner in FIR No. 0007, dated 05.01.2023 under Sections 457 & 380 of IPC, 1860, registered at Police Station Shahkot, Distt. Jalandhar Rural.

The allegations qua the petitioner is that he has stolen tractor and thereafter, alleged to have used the same vehicle in the illegal mining. It is also the fact of case that another co-accused namely Raju, who was working as a driver of the said tractor in connivance with the petitioner has actively participated in the commissioning of offence.

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab, accepts notice on behalf of respondent-State, who contends that the petitioner is an habitual offender and is involved in four other cases bearing FIR No.67 dated 15.04.2016, under Section 21 of Mining & Minerals Act, 1957 & Section 379 of IPC, registered at Police Station Sidhwan Vet. Ludhiana, FIR No.117 dated 10.07.2017, under Section 379 of IPC and Section 21 of Mining & Minerals

Act, 1957, registered at Police Station Shahkot, District Jalandhar, FIR No.09/2021, under Section 379 of IPC and Section 21 of Mining & Minerals Act, 1957, registered at Police Station Sadar Kapurthala and FIR No.146 dated 22.08.2021, under Section 379 of IPC and Section 21 of Mining & Minerals Act, 1957, registered at Police Station Sadar Kapurthala, therefore, does not deserve the concession of anticipatory bail.

Considering the facts in totality that the petitioner is involved in four other cases of similar nature, which shows that he is an habitual offender involved in the offence of illegal mining.

Reliance can be placed on the judgment of this Court rendered in the case of “***Jatinder Singh vs. State of Punjab***”, CRM-M-31319-2022, ***decided on 03.12.2023***, wherein it has been held as under:

Mining from, within or near a riverbed has a direct impact on the stream’s physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, instream roughness of the bed, flow velocity, discharge capacity, sediment transportation capacity, turbidity, temperature, etc.

Alteration or modification of the above attributes may cause hazardous impact on ecological equilibrium of riverine regime. This may also cause adverse impact on instream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow-paths. . Illegal sand mining also causes erosion. Damming and mining have reduced sediment delivery from rivers to many coastal areas, leading to accelerated beach erosion. Apart from threatening bridges, sand mining transforms the riverbeds into large and deep pits; as a result the groundwater table drops leaving the drinking water wells on the embankments of these rivers dry. Even otherwise,

sand/mines is a public property and the State is the custodian of the said public property and therefore, the State should be more sensitive to protect the environment and ecological balance and to protect the public property the State should always be in favour of taking very stern action against such violators.

It is the obligation of all concerned, including the Central and the State Governments, to conserve and not waste such valuable resources. Article 48-A of the Constitution requires that the State shall endeavour to protect and improve the environment and safeguard the forests and wild life of the country. Similarly, Article 51-A enjoins a duty upon every citizen to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for all the living creatures.

Be that as it may, considering the allegations against the petitioner that he is involved in four other cases of similar nature, the custodial interrogation of the petitioner is required to unearth the mining mafia running in the region in the present case. No leniency is to be shown towards the culprits who at the cost of damage to nature, are fulfilling their vested interest. Further there is also no material evidence to establish the presumption of innocence of the petitioner, hence, the question of admitting him on bail does not arise at all.

In view of afore-said discussions, the present petition is dismissed being devoid of any merits.

(SANDEEP MOUDGIL)
JUDGE

28.03.2023
Meenu

Whether speaking/reasoned Yes/No
Whether reportable Yes/No