

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

CRM-M-43976-2023 (O&M)

Date of Decision: 04.09.2023

Gulab Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sirat Sapra, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.126 dated 11.07.2023, under Section 379 IPC and Section 21 (4) of Mines and Minerals (Development and Regulation), Act, 1957, registered at Police Station Sadar Fazilka, District Fazilka.

2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and he is not even the owner of the JCB machine and the allegations were that one JCB machine which was driven by one co-accused namely Tarsem Singh was caught while doing illegal mining. He submitted that earlier he had filed an application for grant of anticipatory bail before the learned Sessions Court and only three days time was granted to him to join investigation but he could not join investigation because he was travelling outside the State and

submitted that now he is ready and willing to join the investigation as directed by this Court.

3. At this stage, Mr. Ramdeep Partap Singh, Senior DAG, Punjab has stated that he has already received an advance copy of the present petition and he has already sought instructions in the present case. He submitted that it is a case where even as per the application which has been attached alongwith the present petition as Annexure P-2, one application was filed for grant of superdari by one Gursewak Singh in which it has been stated that the aforesaid Gursewak Singh has now got the JCB machine from the earlier owner. He submitted that although the petitioner may not be the owner of the JCB machine but his brother is the owner of the JCB machine and his brother had filed an application for grant of superdari. He further submitted that the petitioner is not entitled for the grant of anticipatory bail on the ground that he was granted interim bail by the learned Sessions Judge, Fazilka on 20.07.2023 vide Annexure P-4 and thereafter, he did not even join the investigation at all although he was granted three days time to join investigation and thereafter vide Annexure P-5, his anticipatory bail application was declined on the ground that he did not join the investigation. He submitted that interim bail was granted by the learned Sessions Court on 20.07.2023 and the learned Sessions Judge dismissed the anticipatory bail application on 26.07.2023 by observing that till date the petitioner has not joined the investigation and submitted that rather for 6 days he did not join the investigation and went out of the State as pleaded by the petitioner in para No.11 of the petition. He submitted that when a person files an application for grant of anticipatory bail it is supported by an affidavit and thereafter he could not have travelled out of

the State instead of joining investigation process.

4. Learned Senior Deputy Advocate General, Punjab further submitted that it is a case where the menace of illegal mining is prevalent in the State of Punjab and the petitioner is a habitual offender and is involved in 8 more cases of similar nature and therefore, on this ground as well, the petitioner is not entitled for the grant of anticipatory bail. He further submitted that in case the petitioner is granted anticipatory bail then there is a reasonable apprehension that he may abscond and will not cooperate with the investigation process and considering his earlier conduct he should not be granted anticipatory bail.

5. I have heard the learned counsel for the parties.

6. It is a case where the petitioner is stated to be having connection with the JCB machine on the ground that his brother namely Gursewak Singh was the owner of the JCB machine as per Annexure P-2 whereby the brother of the petitioner namely Gursewak Singh had filed an application for grant of superdari. However, so far as the prayer of the petitioner for grant of anticipatory bail is concerned, it is evident from the orders passed by the learned Sessions Judge, Fazilka that he was granted interim bail on 20.07.2023 to join the investigation within three days but he did not join investigation and on this ground after a period of six days, the learned Sessions Judge dismissed the anticipatory bail application.

7. The petitioner even in the present case has so stated in para No.11 of the petition that he was granted only three days and he could not join the investigation since he was travelling from other State and could not reach well in time. The submissions of the learned counsel for the petitioner

as so stated in para No.11 of the petition is liable to be rejected on the ground that once he has filed an anticipatory bail application before the Sessions Court, he was supposed to have joined the investigation and not to travel outside the State and even otherwise also there is nothing on the record even in the present case to show that where he had travelled and on what dates he had travelled and what is the document in support of that or any material in support of that. The submissions which have been made in para No.11 of the present petition are vague and ambiguous in nature.

8. Apart from the above, it has been pointed out by the learned Senior Deputy Advocate General, Punjab that the petitioner is a habitual offender and is involved eight more cases of illegal mining. Therefore, considering the aforesaid totality and circumstances of the present case and considering the earlier conduct of the petitioner and also the gravity of the offence whereby the allegation is with regard to illegal mining, this Court does not deem it fit and proper to grant anticipatory bail to the petitioner.

9. Consequently, the present petition is dismissed.

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

04.09.2023

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No