

-1-

Sr. No.101+282

Date of Decision : August 27, 2024

.... Petitioner

State of Punjab

.... Respondent

* * *

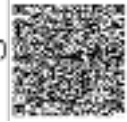
Ms. Avneet, AAG, Punjab.

* * *

1. **CRM-24221-2024** : For the reasons mentioned in the application, the same is allowed and Annexure P-5 is ordered to be taken on record, subject to all just exceptions.

2. **CRM-24987-2024** : For the reasons mentioned in the application, the same is allowed and Gurkaran Singh Gill, son of Balwant Singh Gill, is ordered to be impleaded as respondent no.2 in the main case. ‘Amended Memo of Parties’ tagged with this application is taken on record. Registry to place the same at appropriate place in the file.

3. **CRM-26408-2024** : For the reasons mentioned in the application, the same is allowed and Annexures P-6 to P-9 are ordered to be taken on

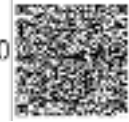
**CRM-M-27293-2024 (O&M)****-2-**

record, subject to all just exceptions.

4. **CRM-28653-2024 and Main Case** : The present petition has been moved under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.32 dated 15.05.2024, under Sections 29, 30, 32, 33 of Forest Act, 1927 and Sections 21(1), 4(1) of Mines and Minerals Act, 1957, registered at Police Station Sadar, District Rupnagar.

5. The aforesaid case was registered on the complaint of Forest Range Officer, Rupnagar, sent to Station House Officer, Police Station Sadar, Rupnagar, which reads as under :-

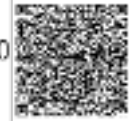
“Subject : Carrying out Mining in the Government Jungles of Village Khalidpur – Regarding. In connection of captioned subject Field Staff Shri Balwinder Singh Block Officer and Shri Bakhshish Kumar Forest Guard has reported to the undersigned that on the intermediate night of dated 13-14/05-2024 during Patrolling in the Government Jungle of captioned village Khalidpur Charanjit Singh son of Sh.Daljit Singh caste Jatt, R/o Village Majri Jattan, Ropar was seen doing mining with J.C.B. No. PB-65-AW-0948 and through vehicle No.PB-12T-6395, when concerned staff stopped him from doing that then he forcibly while taking advantage of dark fled from the spot along with his Machinery (J.C.B. and vehicle). Illegal Mining which has been carried out by above named person in H.B. Number 352 in Khasra Number 14//10, 15//15, 16, 17/2, 24 same is Government area. By doing so Charanjit Singh has violated Forest

**CRM-M-27293-2024 (O&M)****-3-**

Laws/Acts under Section 29, 30, 32, 33 of IFA 1927 under and Hon'ble Supreme Court 12/12/1996. Therefore, legal action may be initiated against accused persons for violating Mining and Forest Act so that Government interests may be taken care of."

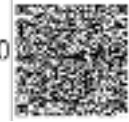
6. The case under Sections 29, 30, 32, 33 of Indian Forest Act, 1927 was registered against the petitioner. On 16.05.2024, the Investigating Officer took into possession the Backhoe Loader make CAT bearing registration No. PB-65-AW-0948 and Tipper make Tata bearing registration No. PB-12T-6395, which were used by the petitioner in carrying out illegal mining in the land of Forest Department. During the course of investigation, the Sub Divisional Officer and Junior Engineer of Mining Department gave report dated 17.05.2024, whereby it has been found that the area under illegal mining was 142 x 60 x 07 feet, meaning thereby that a total of 59,640 cubic feet mining material was extracted by the petitioner from the land of Forest Department. So, vide DDR No.20 dated 17.05.2024, offence under Section 21(1) of Mines and Minerals (Development and Regulations) Act, 1957 was added. During investigation, it was also found that the Provincial Government is the owner of the land in question and the petitioner has committed theft of 59,640 cubic feet mining material from the land of Provincial Government, so, Section 379 IPC was also added vide DDR No.25 dated 26.06.2024.

7. Learned Senior counsel, appearing for the petitioner, has argued that it is highly improbable that a single person took away two vehicles at

**CRM-M-27293-2024 (O&M)****-4-**

one time in presence of officials of Forest Department. The petitioner is having adjoining land with the Forest Department and he used to park his JCB Machine bearing registration No. PB-65-AW-0948 along with Tipper bearing registration No. PB-12T-6395 on his land. A copy of *jamabandi* (Annexure P-3) and a copy of map showing khasra numbers of the land in question for the year 2021-22 (Annexure P-2) have been annexed with the petition. The land of the petitioner is adjoining the land, where illegal mining has been done. The complaint lies under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957. FIR has been registered. It is a special Act. The general provisions of IPC are not attracted at all. The petitioner also referred to an agreement dated 05.11.2021 (Annexure P-5), whereby rights of possession have been transferred by the petitioner in favour of one Inderjit Singh.

8. Learned State counsel has opposed the present petition by submitting that the petitioner has done illegal mining from the Forest land comprised in Khasra No.14//10, 15//15, 16, 17/2, 24, situated in the area of Village Majri Jattan, with JCB Machine bearing registration No. PB-65-AW-0948 and Tipper bearing registration No. PB-12T-6395, thereby extracting 59646 cubic feet mining material from the Forest land, which is owned by the Provincial Government, with the help of Backhoe Loader and Tipper, which were taken into police possession. Since the FIR was registered at the instance of intimation given by officials of Forest Department, who noticed the petitioner doing illegal mining from forest

**CRM-M-27293-2024 (O&M)****-5-**

land, so, non-mentioning of fact whether any other person was helping the petitioner or was also involved in illegal mining, is immaterial at this stage.

9. I have heard the submissions of learned counsel for the parties and have perused the case file.

10. The FIR is not an encyclopedia. During patrolling, officials of the Forest Department found illegal mining taking place. They informed their senior Officer, who lodged the FIR. It is mentioned that the petitioner had violated the provisions of the Forest Laws/Acts and also Mines and Minerals Act, 1957, but the case was registered only under the Forest Act at the first instance. During investigation, on the basis of demarcation report obtained from Tehsildar, it was found that mining was done from the Forest land owned by Provincial Government. So, Section 379 IPC was added in this case. When mining from the Government land is done, then provisions of Section 379 IPC are attracted. The illegal mining is adversely affecting the environment and is creating ecological imbalance and is resulting into soil erosion etc. The anticipatory bail is an exceptional remedy. Keeping in view the gravity of offence, the petitioner is not entitled for anticipatory bail. Moreover, in the case in hand, the custodial interrogation of the petitioner is also required as 59646 cubic feet mining material has been extracted from the Forest land and said material would have been supplied to some other persons.

11. In view of the above detailed discussion and the peculiar circumstances of the case, I do not find any ground to grant anticipatory bail

to the petitioner. The present petition is devoid of any merit and the same is hereby dismissed.

12. Pending applications, if any, shall stand disposed of along with this judgment.

August 27, 2024

(GURBIR SINGH)
JUDGE

monika

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