

In the High Court for the States of Punjab and Haryana
At Chandigarh

I)	CRM-M-28996-2024 (O&M)
Harbhajan Singh Gill	... Petitioner
Versus	
State of Punjab	...Respondent
II)	CRM-M-19629-2024 (O&M)
Harmeet Singh	... Petitioner
Versus	
State of Punjab	... Respondent
III)	CRM-M-23722-2024 (O&M)
Kuldeep Singh	... Petitioner
Versus	
State of Punjab	... Respondent
IV)	CRM-M-26646-2024 (O&M)
Randhir Singh	... Petitioner
Versus	
State of Punjab	... Respondent
V)	CRM-M-51979-2024 (O&M)
Gurwinder Singh	... Petitioner
Versus	
State of Punjab	... Respondent

Date of Decision:-11.11.2024

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CRM-M-19629-2024 (O&M)
CRM-M-23722-2024 (O&M)
CRM-M-26646-2024 (O&M) &
CRM-M-51979-2024 (O&M) (2)

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Tanvir S. Grewal, Advocate,
for the petitioner in CRM-M-28996-2024.

Mr. Lakshay Bector, Advocate for the petitioner(s),
in CRM-M-19629-2024 and CRM-M-51979-2024.

Ms. Shivya Sehgal, Advocate,
for the petitioner in CRM-M-23722-2024.

Mr. Gursahib S. Ghuman, Advocate,
for the petitioner in CRM-M-26646-2024.

Mr. Prabhdeep Singh Dhaliwal, AAG, Punjab.

FIR No.	Dated	Police Station	Section/s
28	4.3.2023	Meharban, District Ludhiana, Punjab	307, 353, 186, 379 of Indian Penal Code and Section 21 of Mines & Mineral (Development & Regulation) Act, 1957, wherein offence under Section 307 IPC was deleted later on

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned five petitions filed on behalf of petitioners – Harbhajan Singh Gill, Harmeet Singh, Kuldeep Singh, Randhir Singh and Gurwinder Singh seeking grant of anticipatory bail in respect of abovementioned FIR.
2. The FIR in question was lodged at the instance of Ankit Kumar, JE -cum- Mining Inspector, Sub Division Ludhiana, wherein it has been stated that pursuant to receipt of complaint on mining portal, two teams i.e. Team-A consisting of JE -cum- Mining Inspector Aman Thakur, Pravesh Shukla and PHG Sudesh Kumar and Team-B consisting of JE -cum- Mining Inspector



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Ankit Kumar, Isimtpal and ASI Husan Lal, were constituted. It has been alleged that during the course of patrolling on 04.03.2023, Team-A on the way noticed 1 tipper bearing registration No.PB-10HL-1528 full of sand. Team-A found that illegal sand mining measuring approximately 25 to 30 feet had been going on in the area. At the place on illegal mining, 4 Tippers and 1 JCB i.e. earth mover machine were found. The description of the said Tippers and JCB is as under:

- (i) Tipper-1 bearing registration No.PB-08El-8933 make Ashoka Leyland, colour white;
- (ii) Tipper-2 bearing registration No.PB-11-CB-9493 make Bharat Benz, colour Yellow;
- (iii) Tipper-3 bearing registration No.PB-10HF-1105 make Tata, colour white;
- (iv) Tipper-4 bearing registration No.PB-10HX-1537 make Tata Sigma, white colour;
- (v) JCB bearing registration No.PB-10HL-1528 make Tata, colour White, having Sr.No.737532, Engine No.H00078908

3. During the course of patrolling on the way to Bhukhri, Team-B also noticed two JCBs bearing registration Nos.PB-10HX-4200 and PB-10HD-4924 coming from the place where illegal mining is going on. While Team-B was inspecting JCB bearing registration No.PB-10HX-4200, then some unidentified persons, who were hiding in the surrounding fields, drove away the other JCB bearing registration No.PB-10HG-4924. Although the mining team and police officials ran after the said JCB to stop it, but the driver of the said JCB and some unidentified persons threatened to fire on them and drove



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away the JCB. The area in question was falling within the public mining site, Bhukhri and the area where the illegal mining was found to have been undertaken was found to be owned by petitioners - Kuldeep Singh, Randhir Singh and Harbhajan Singh, all sons of Pritam Singh, residents of Dhanansu. The vehicles i.e. 5 Tippers and 1 JCB found at the spot were taken into possession.

4. Learned counsel representing the petitioners - Harbhajan Singh Gill, Kuldeep Singh and Randhir Singh, who are all brothers and are co-owners of the land where illegal mining was allegedly been undertaken, submitted that they have falsely been implicated in the present case and infact it is a case where the area in question, where mining had been undertaken, had been declared as a mining area and in respect of which the petitioners had been granted permission so as to undertake mining operations. It has further been submitted that in case any excessive mining had been found to have been done at the spot, the same was perhaps handiwork of some other unauthorised persons without the knowledge of the petitioners.
5. Learned counsel for petitioner - Kuldeep Singh (in CRM-M-23722-2024) additionally submitted that he, in any case, was not in possession of the land in question as he had given the same on lease to his brother Harbhajan Singh vide sale-deed dated 7.7.2022.
6. Learned counsel representing petitioner - Gurwinder Singh (in CRM-M-51979-2024) submitted that the petitioner is merely a driver working for owner of the JCB machine on monthly salary and was operating the JCB machine under the instructions of the owner of JCB machine, who had been



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hired by the land owners and that, under these circumstances, he cannot be held responsible in any manner as the petitioner being an illiterate driver cannot be imputed with any *mens rea* in respect of the alleged offences of illegal mining and that it is either the owner of JCB machine or the land owner, who can be held responsible.

7. Learned counsel representing petitioner - Harmeet Singh (in CRM-M-19629-2024) submitted that he is owner of the 2 tippers found at the spot and otherwise was never present at the spot. It has been submitted that the petitioner is in business of renting out his tippers and that while renting out the same, he is not in a position to ascertain as to whether the tippers are going to be used for committing any offence. A prayer has thus been made on behalf of the petitioners for grant of anticipatory bail.
8. Opposing the petitions, learned State counsel submitted that having regard to the serious nature of offences, no case for grant of anticipatory bail is made out.
9. This Court has considered rival submissions addressed before this Court.
10. It will not be out of place to mention here that out of the three co-owners namely Harbhajan Singh Gill, Kuldeep Singh and Randhir Singh, one of them i.e. petitioner - Harbhajan Singh Gill had earlier also approached this Court by way of filing CRM-M-62097-2023 so as to seek grant of anticipatory bail and his petition was dismissed by passing a detailed speaking order dated 5.2.2024 (Annexure P-2 in CRM-M-28996-2024). Subsequently, petitioner - Harbhajan Singh Gill also filed Special Leave Petition (SLP) in Hon'ble the



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Supreme Court assailing the aforesaid order declining grant of anticipatory bail, but Hon'ble the Supreme Court dismissed the said SLP.

11. Some relevant extracts from the earlier order dated 5.2.2024 passed in CRM-M-62097-2023 (Annexure P-2 in CRM-M-28996-2024) are reproduced herein-under:

“7. When the matter was taken up for hearing on 12.01.2024, the following order was passed:

“Status report has been filed, which is taken on record. Copy thereof has been furnished to the counsel opposite. However, this Court finds that the complete particulars as regards the depth of illegal mining on the entire area of land are not specified. State to furnish fresh status report clearly mentioning as regards the ownership of the petitioner alongwith his brother/co-accused and the area out of the said land, which has been illegally mined and also its depth. List again on 30.01.2024.”

8. *In compliance of the aforesaid direction, the State has today filed status report by way of affidavit of Mr. Sandeep Singh, Assistant Commissioner of Police (East), Ludhiana, which is taken on record. Para 3 of the said report is reproduced hereinunder:*

“3. That in compliance to the above noted order of this Hon'ble Court, ASI Gurbakshish Singh, Incharge-P.P. Mattewara (P.S.Meharban), Ludhiana was deputed to contact the concerned departments to know the ownership of the area owned by the petitioner and his co-accused/brothers which has been illegally mined and its depth. Accordingly, Jamabandies (revenue record) of the land owned by the petitioner and his co-accused were obtained by the said ASI from the revenue



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department during which it has been revealed that the petitioner and his two brothers/co-accused are owners of total land measuring 13 Acres – 2 Kanals – 9 Marlas. Similarly, as per letter dated 24.01.2024 (Annexure R-1/T) issued by the SDO-cum-Asstt. District Mining Officer, illegal mining from total area measuring 8816 square feet (0.20 Acre) owned by the petitioner and his two brothers/co-accused upto the depth of 27.50 feet has been excavated whereas they were given permission to excavate upto the depth of 5.84 feet only. In this way, illegal depth of the illegal mining is 21.5 feet from the said land of the petitioner and his co-accused i.e. measuring 8816 (0.20 Acre) square feet and total 189544 (8816x21.50) Cubic feet sand has been excavated from the said land of the petitioner and his co-accused as mentioned above.”

9. *Admittedly, the petitioner and his two brothers/co-accused are owners of the land in question where the excavation was found to have been done. Though the area in question is apparently declared as a mining area and the petitioner and his brothers had been granted permission for excavation, but the said permission was only to the extent of 5.84 feet, whereas the excavation was found to have been made upto the depth of 27.50 feet on an area measuring 8816 square feet (0.20 Acre). The excavation to such a depth of 27.50 feet could not have been undertaken in a day and could not have gone unnoticed particularly when the excavated portion i.e. 0.20 Acre forms part of a larger chunk of land i.e. 5.01 Acre, owned by the petitioner and his brothers, where cultivation is being done. The petitioner and his brothers are in possession of the said land having purchased from one Dalwinder Singh as per the revenue record. The petitioner being one of the co-owners and residing in a village, which is stated to be merely 4/5 Kms. away from the place of occurrence, cannot feign ignorance about the unauthorized excavation being undertaken at their jointly owned*



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agricultural land. The owner of a huge chunk of land is not expected to look after his land in such a casual manner, so that the same may be misused for the purpose of illegal mining. Rather, such an act is indicative of complicity of the petitioner.

10. The adverse effect of environmental degradation needs no highlighting. Rather illegal mining can lead to floods & destruction of crops and even washing away of homes and properties apart from pollution and destruction of wildlife and ecosystem. No leniency can be shown in such like matters, which have an irreparable adverse effect on the environment and is a colossal loss for generations to come. Extracting minerals in an illegal manner plays havoc with environment which virtually is an offence against the entire man-kind. No laxity is warranted in such like matters. Rather, such like offences need to be checked at the very first instance. In these circumstances, the matter in hand is certainly such where custodial interrogation of the petitioner would be required. As such, no special case for grant of anticipatory bail is made out. The petition is sans merit and is hereby dismissed.”

12. Ever since dismissal of earlier petition, there is no substantial change in circumstances warranting a different view to be taken for grant of anticipatory bail as regards the case against land-owner Harbhajan Singh.
13. The case of his real brothers i.e. petitioners - Kuldeep Singh and Randhir Singh, who are the co-owners, is also on the same footing and deserves to be met with the same fate. Although one of the brother i.e. Kuldeep Singh has tried to set up a case that he had given his share of land on lease to his brother Harbhajan Singh Gill and that he was not physically possessing the land, but the said factum is not admitted by Harbhajan Singh. In any case, the contention on behalf of petitioner – Kuldeep Singh having leased out his land



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to his real brother is a matter, which would require to be established by leading concrete evidence and the evidence, at this stage, on which petitioner – Kuldeep Singh is relying, is not *prima facie* found to be trustworthy as neither the lease deed in question is a registered piece of document nor the same is stated to have been produced before any authorities prior to registration of the FIR so as to lend any kind of assurance regarding genuineness of such lease deed. Consequently, all the three petitions on behalf of the three co-owners namely Harbhajan Singh, Kuldeep Singh and Randhir Singh i.e. CRM-M-28996-2024; CRM-M-23722-2024 and CRM-M-26646-2024 are hereby dismissed.

14. As far as the case of petitioner – Gurwinder Singh (in CRM-M-51979-2024), who is driver of the JCB machine is concerned, it can be said that he being a driver hired by owner of JCB machine in question may not actually be fully aware that the operation being undertaken by him on the land of the co-accused was infact illegal. A driver under normal circumstances would normally be doing work for his employer i.e. owner of the JCB machine. The driver may not be fully aware as to what depth or extent, the mining upon a licensed “mining area” is permissible.
15. Similarly the owner of tippers i.e. petitioner – Harmeet Singh (in CRM-M-19629-2024), who was not even present at the spot and who had apparently let out his tippers on rent cannot be attributed *mens rea* and at this stage can be extended the benefit of anticipatory bail.
16. As such, petitions on behalf of petitioners Harmeet Singh i.e. CRM-M-19629-2024 and petitioner - Gurwinder Singh i.e. CRM-M-51979-2024 are



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hereby accepted and petitioners - Harmeet Singh and Gurwinder Singh, in the event of their arrest, are ordered to be released on bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, petitioners - Harmeet Singh and Gurwinder Singh shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

17. A copy of this order be placed on the file of each connected case.

11.11.2024
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No