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

CRM-M-30254-2024

Date of Decision: 20.06.2024

Geeta Ram

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Harshit Joon, Advocate for
Mr. Dilmrig Nayani, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.60, dated 16.05.2024, registered under Sections 21(1) and 4(1) of the Mines and Mineral Regulation and Development Act, 1957 (for short, 'the Act'), at Police Station Anandpur Sahib, Rupnagar.

2. Adumbrated facts of the case are that JE Vikesh Gupta lodged the FIR on the ground that on 16.05.2024 at about 11:00 a.m., he inspected the site and found the illegal mining being carried out. It is alleged that at the spot JCB Machine (yellow colour) was found doing the illegal mining and on seeing the Government vehicles, they took it away from the mining site. He alleged that the quantity of mining site was found as 'Long:76.579007, Lat: 31.242062, quantity: 42x50x3= 6300 cft. He alleged in the complaint that on conducting the enquiry, it was found that the said machine was registered in the name of Geeta Ram (petitioner), thus, request was made to take legal action under Section 21(1), 4(1) of the Act against the landowner and the owner of the JCB machine. On the registration of the



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FIR, the investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Rupnagar for grant of anticipatory bail, however, after hearing both the sides, the Court declined the same vide order dated 28.05.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that neither the petitioner was arrested on the spot nor the machine as alleged, was recovered from the spot. He submits that no specific allegation has been levelled against the petitioner. It is submitted that the petitioner has been prosecuted in violation of Section 22 of the Act. He thus, submits that no cognizance can be taken by the Court except on the basis of the complaint filed by the Competent Authority. He has submitted that from the facts and circumstances of the case, there is no evidence on record for proving the complicity of the petitioner in the alleged offence and thus, the petitioner deserves to be granted anticipatory bail.

4. Notice of motion.

5. Mr. Rajeev K. Takkar, Deputy Advocate General, Punjab, accepts notice on behalf of the State. He has opposed the submissions made by learned counsel for the petitioner and has submitted that the FIR was lodged on the complaint made by the JE, wherein, he spotted illegal mining being carried out at the spot. He submits that the petitioner and JCB machine were found to be present at the spot, however, on seeing the Government vehicles, he escaped from the site alongwith the machine. It is submitted that the petitioner is specifically named in the FIR and JCB machine which was involved, is also registered in his name and the same is



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yet to be recovered. He submits that just because the petitioner escaped alongwith JCB from the site, is no ground for granting him anticipatory bail.

6. After hearing learned counsel for the parties and perusing the record, it is apparent that on the basis of the complaint lodged by the JE, the FIR was registered. JE alongwith other Government officials spotted the illegal mining being carried out, wherein, the petitioner with the help of JCB machine was found to have been carrying on illegal mining. However, on seeing the Government vehicle, the petitioner escaped alongwith JCB machine. In the complaint filed, the petitioner and JCB machine were specifically mentioned and the quantity of the mining carried out, was also specified. During the investigation, it became apparent from the record that JCB involved was registered in the name of petitioner. However, the petitioner could not be arrested on the spot as he managed to escape. The JCB machine involved in the offence is yet to be recovered. Thus, it is apparent that the case is under investigation. *Prima facie*, complicity of the petitioner is found to have been established and thus, for free and fair investigation, custodial interrogation of the petitioner would be required. Contentions raised by counsel for the petitioner regarding violation of Section 22 of the Act would be subject matter of trial.

7. Hon'ble the Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in



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disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

8. Hon’ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab**, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

9. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

20.06.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No