

2024:PHHC:081605



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

102

CRM-M-30501-2024 (O&M)
Date of decision: 02.07.2024

Kanwaljeet Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 88, dated 16.05.2024, under Sections 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379-B of IPC at Police Station Beas, District Amritsar (Rural).
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on a complaint filed by ASI Shamsheer Singh on 16.05.2024 alleging therein that on the same night, a secret information regarding illegal mining being done along side of Beas river falling within the area of village Wazir Bhullar by the petitioner though his tipper vehicles and with one JCB machine was received. It was also informed that the sand was illegally being extracted at the behest of the petitioner and at that time also, co-accused Malkit Singh was filling sand in his tipper vehicle bearing registration number PB-65-AZ-9260 and if an

2024:PHHC:081605



immediate raid is conducted, he can be apprehended. Believing the information to be true, a raid was conducted at the informed place and it was found that the sand was being loaded in one of the 08 tipper vehicles parked therein. However, the drivers of the tipper vehicles fled away on seeing the police party and tipper vehicles and JCB Machine were taken into possession. It also came to the knowledge of the police that the JCB machine was arranged by the petitioner and he had visited the spot on the same day in his Brezza car. Investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner had moved an application for grant of concession of pre-arrest bail before the Court of learned Additional Sessions Judge, Amritsar but the same had been dismissed, vide order dated 07.06.2024 (Annexure P-5).

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case due to political rivalry as he belongs to *Akali Dal*. He does not own any Brezza car as alleged in the FIR. He also does not own the vehicle, which was allegedly recovered from the spot. Co-accused Rana @ Ranjit and Malkit Singh, who were owners of the tipper vehicles allegedly recovered from the spot, have been released by the police without arresting them by making manipulations. Three more persons, namely Johny, Michael and Pargat Singh, who were the drivers of the alleged tipper vehicles and were nominated as accused in this case, had moved applications for grant of pre-arrest bail before the Court of learned Additional Sessions Judge, Amritsar but as per report submitted by the police, they had not been nominated as accused in the case, therefore, they had withdrawn their

2024:PHHC:081605



respective applications, which was clearly indicative of the fact that this FIR has been registered only to implicate the petitioner. It is further argued that custodial interrogation of the petitioner is not required. He is ready to join investigation. No recovery is to be effected from him. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the drivers/registered owners of the tipper vehicles and JCB machine along with the present petitioner are yet to be arrested and the persons, namely Johny, Michael and Pargat Singh, had not been nominated as accused and that is why, they had not been arrested. The custodial interrogation of the petitioner is required for proper investigation of the matter by the police as well as for the purpose of extracting information from him about the manner, in which, he used to carry out illegal mining. The petitioner is involved in three other criminal cases and one of them is of similar nature. He has criminal antecedents. Therefore, it is argued that keeping in view the allegations levelled against the petitioner, he does not deserve to be given concession of pre-arrest bail.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. The petitioner is alleged to be involved in the business of illegal mining of sand along side Beas river with the help of tipper vehicles and JCB machine. 08 tipper vehicle were recovered from the spot, out of which, one was loaded with sand. One JCB machine was also recovered from the spot on the basis of the secret information. The said secret information was specific

2024:PHHC:081605



about the petitioner. The allegations against the petitioner are specific and serious in nature. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

02.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

2024:PHHC:081605

