

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.31557 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Paramjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amrik Singh, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
27	15.03.2024	Nangal, District Rupnagar	21(1) and 4(1) of the Mines and Minerals (Development and Regulation) Act, 1957.

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. As per paragraph 13 of the bail application and the reply/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	162	01.11.2023	Under sections 21(1), 4(1) Mines and Minerals (Development and Regulations) Act, 1957	Nangal, District Rupnagar

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That it is respectfully submitted that joint complaint dated 15.03.2024, was moved by the complainants Lakhdeep Sub-Divisional Officer, Abhishek and Manreet, both Mining Inspector-cum-Junior Engineers, to Incharge, Police Post Naya Nangal, Police Station Nangal, averring therein that in the morning of 15.03.2024, a video of Illegal Mining was received on their whatsapp, whereby it was found that illegal mining was being carried out in the area of village Bhallan



and on receipt of aforementioned video the team of mining officials reached at the spot and it was found that fresh mining was carried out in the area of Swan river and thereafter checking of crushers in the area of Bhallan mining zone was carried out and during checking it was found that fresh raw mining material was found in the premises of Yogi Crusher and Malwa Screening & Stone Crusher and it was found to be extracted from Swan river. It was further averred in the complaint by the complainants that two poclain machines were also found parked near the raw mining material and the marks of the chains of the poclain machines were also fresh. It was further specified by the complainants in their complaint that poclain machine make JCB of yellow colour was parked in the premises of Yogi Stone Crusher and poclain machine make Kobelco of green colour was found parked in the premises of Malwa Screening and Stone Crusher. The Mining officials further requested the Incharge, Police Post Naya Nangal, Police Station Nangal, to register FIR in the matter, against the land owners and crusher owners, as it was a violation of provisions of Mines and Minerals (Development and Regulations), Act, 1957.

3. That it is respectfully submitted that on the basis of aforementioned complaint moved by the complainants mentioned above, FIR No.27 dated 15.03.2024, under Section 21(1) read with 4(1) of Mines and Minerals (Development and Regulations) Act, 1957, was lodged at police station Nangal, District Rupnagar, against unknown owners of Yogi Stone Crusher, Malwa Screening and Stone Crusher, poclain machines mentioned above and land owners. It is further submitted that on same day i.e. on 15.03.2024, investigating officer inspected the spot and after inspection prepared site plan of the place of occurrence from where illegal mining was carried out. It is further submitted that the poclain machines make JCB of Yellow colour and Kobelco of blue-green colour, found parked at the aforementioned crushers near the fresh raw mining material were seized and were taken into possession by the investigating officer. It is further submitted that during the course of investigation, on 18.03.2024, the investigating officer moved an application to Tehsildar Nangal, seeking demarcation of the land to verify the Khasra numbers and ownership of the land where the illegal mining was carried out."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"A. Role of the petitioner

4. That it is further submitted that during the course of investigation, on 18.03.2024, the investigating officer moved an application to the Sub-Divisional Officer, Mining-cum-Drainage, Nangal, seeking ownership record of the Yogi Stone Crusher and Malwa Screening and Stone Crusher, and as per report of SDO Mining, the Yogi Stone crusher is found registered in the name of petitioner-Paramjit Singh, and the Malwa Screening and Stone Crusher is found registered



in the name of Deepak Singh Monga son of Desa Singh Monga and Rohit Vohra son of Raj Kumar.

5. That it is further submitted that during investigation of the present case, on 28.03.2024, one Gurdev Singh son of Ram Dass, resident of Palata, joined the investigation and he produced copy of an Authority Letter dated 07.12.2023, whereby it has been conveyed that Jagtar Singh and petitioner-Paramjit Singh are partners in the Yogi Stone Crusher, and out of them petitioner-Paramjit Singh is managing partner of the crusher, accordingly, petitioner- Paramjit Singh was nominated as an accused in the present case. It is further submitted that on same day i.e. on 28.03.2024, one Rajdeep Singh son of Raminder Singh of Firozepur, and he produced agreement / rent deed dated dated 01.10.2023, whereby Deepak Singh Monga and Rohit Vohra (owners of Malwa Screening and Stone Crusher) had given their Screening plant and Stone Crusher on rent to Surjit Singh son of Balvir Singh, resident of village Hamad, District Firozepur, till 31.09.2024, at the rate of monthly rent of Rs.1,50,000/-. It is further submitted that on the basis of aforementioned agreement / rent deed dated 01.10.2023, Surjit Singh son of Balvir Singh was also nominated as an accused in the present case, on dated 28.03.2023.

6. That it is further submitted that on 12.04.2024, the report dated 04.04.2024, of revenue department was received and it was found that the Khasra Numbers of the land under illegal mining are 73//2 and from the revenue record of the village Bhallan, the Khasra Number 73//2 is found to be owned by the petitioner-Paramjit Singh being 1/3 share and he has been recorded as owner of the land being 1/3 share in the revenue record ie Fard Jamabandi for the year 2021-22.

B. Evidence against the petitioner:

7. That it is respectfully submitted that the complainants visited the spot on 15.03.2024, from where the mining material was extracted and they found that there was fresh digging at the spot and the fresh marks of the chains of the poclain machines from the spot to the crusher of the petitioner-Paramjit Singh led the mining officials to the Yogi Stone Crusher and Malwa Screening and Stone Crushers and further fresh raw mining material found at the premises of these crushers established that the mining was carried out by these crushers and Yogi Stone Crusher is being owned and managed by the petitioner-Paramjit Singh. It is further submitted that from the revenue record of the land in question, it has been found that the petitioner-Paramjit Singh is owner of the land being 1/3 share, from where illegal mining was carried out."

7. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration.

8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the property, workplace, and residence of the victim until the statements of all non-official and informal witnesses in the trial are recorded. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to Vikram Singh v Central Bureau of Investigation, 2018 All SCR (CrI.) 458); and Aparna Bhatt v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

14. Given the background of allegations against the petitioner, it becomes paramount to protect the illicit liquor detection squad and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being



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imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would restrain the accused from influencing the witnesses and repeating the offense.

15. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon’ble Supreme Court holds that “The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed.”

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.