

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-62097-2023 (O&M)  
Date of Decision: 05.02.2024

Harbhajan Singh Gill .....Petitioner

Versus

State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Tanvir S. Grewal, Advocate, for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

| FIR No. | Dated      | Police Station                      | Section/s                                                                                                                                                     |
|---------|------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 28      | 04.03.2023 | P.S. Meharban,<br>District Ludhiana | Sections 307, 353, 186, 379<br>IPC (Section 307 IPC stands<br>deleted later on) and Section<br>21 of the Mines & Mineral<br>(Development & Regulation)<br>Act |

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in respect of aforementioned 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 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.PH-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 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 Kuldeep Singh, Randhir Singh and Harbhajan Singh (petitioner), 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 for the petitioner submits that the petitioner is a person aged about 60 years and is residing in a different village i.e. Dhanansu and was never ever present at the spot. It has been submitted that as a matter of fact during the course of investigation, the police could not find any evidence against him and the petitioner was found to be present in his village Dhanansu and not at the spot. Learned counsel further submits that the police during the course of investigation had collected the call details and had scrutinized the same. Though a large number of calls are stated to have been exchanged between co-accused Randhir Singh and a person having mobile No.8872427316, which is in the name of Harmeet Singh, but no such unusual number of calls was found to have been made from the mobile of the petitioner. Learned counsel further submits that the area in question in any case has been declared as a 'mining area' and the petitioner has been granted permission for undertaking mining operations and that if any unauthorized mining has been undertaken, the same would have been undertaken by some miscreants, but not by the petitioner or his brothers.
5. Opposing the petition, learned State counsel has submitted that the land in question where unauthorized mining had been undertaken belongs to the petitioner and to his two brothers and having regard to the extent of excavation, the petitioner cannot feign ignorance about the illegal mining undertaken on his land.
6. This Court has considered the rival submissions.
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 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 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 occurrence, cannot feign ignorance about the unauthorized excavation being undertaken at their jointly owned 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.

**05.02.2024**

Vimal

**(GURVINDER SINGH GILL)**  
**JUDGE**

|                            |               |
|----------------------------|---------------|
| Whether speaking/reasoned: | <b>Yes/No</b> |
| Whether reportable:        | <b>Yes/No</b> |