2025:PHHC:051282

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM M-102 of 2025
Date of Decision:09.04.2025

Deepak Sharma ...Petitioner

Versus

State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate
Mr. Dushyant Rana, Advocate
Mr. Dhruv Trehan, Advocate
for the petitioner.

Mr. Pawan Girdhar, AAG, Haryana.

Mr. Prateek Gupta, Advocate
for respondent No.2-CBI.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 of the BNSS, 2023 with a prayer to grant anticipatory bail to him in case FIR No.0522 dated 27.11.2024 registered under Sections 7 and 8 of Prevention of Corruption Act, 1988, Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 and Sections 61(2), 303 of BNS at Police Station Chandimandir, District Panchkula.

2. The FIR in the present case was registered on the basis of the statement made by Yugvinder Singh, Incharge, Crime Branch, Sector 19, Panchkula and the same has been reproduced below:-

> *"To, SHO, Chandimandir, Panchkula, today I In-charge of Crime Branch 19 along with other police officials on vehicle HR 03-GV-3545 was present in the patrolling in Sector 25. That an informant visited and informed that Ram Sharan @ Chotu 9729407791 and Amardeep Mobile No. 07317000094, Adesh, Chhaja Singh, Romi Patiala etc do illegal mining with the officials of Chandimandir Police Station Chowki Sector 25, Ramgarh, Mauli and Police Station Pinjore and illegal mining money as bribe HGH Deepak 750 who also works in GYM. This Deepak takes money as bribe from the said persons from illegal mining for the officers of the police and gives it to the employees of the concerned police stations/outposts. In this regard, the above persons have also created a Whatsapp group for illegal mining through which information about illegal mining is exchanged. HGH Deepak 750 also chats or talk with the above through WhatsApp and HGH Deepak colludes with the newly posted police personnel to carry out illegal mining. Deepak takes money as a bribe from the above persons and gives it to the police officers of the respective outposts to get the government employees to do illegal mining. Deepak takes money as bribe and gives it to the police employees in place of illegal mining of the above persons. From the Special information Ramsharan, Amardeep, Adesh, Chhaja Singh, HGH Deepak 750 and police staff to issue a written report on the offence under Section 7, 8 Prevention of Crime Act,*

> *Section 61 (2), 303 BNS, Section 21 Mining Act. Case registered against them by ASI Ravinder Pal 91/PKL.".*

3. Learned senior counsel appearing on behalf of the petitioner vehemently argued that the petitioner was serving as a volunteer in Haryana Home Guard and was not even a regular police official. He was among the lowest rank officials with almost no official powers and could not have offered bribes to the senior officers of the police as well as the mining department. Even, he had no capacity to get in touch with the higher rank police officers and at the time of registration of the FIR, he was posted in Municipal Corporation Office, Sector 14, Panchkula, where no other police official was posted. Still further, the petitioner had no concern with the mining activities in the area of Chandimandir, Ramgarh, Mouli, Pinjore and surrounding areas and has been falsely named by the complainant, just to make him a scapegoat. Even during the course of investigation, the police had arrested several accused, but nothing was recovered from any of the accused and the case of the prosecution is based on various disclosure statements suffered by the co-accused. He further contended that even the petitioner was wrongly prosecuted under the provisions of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 as well as Sections 7 and 8 of the Prevention of Corruption Act and the ingredients of these offences were completely missing in the present case. Learned senior counsel further submitted that the FIR has been wrongly registered

under Sections 7 and 8 of the Prevention of Corruption Act as the petitioner had neither demanded any bribe from anyone nor had accepted any bribe. Apart from that, there was no material on the record to show that the petitioner was member of any Whatsapp group as alleged in the FIR in the present case.

4. On the other hand, learned State counsel submitted that in fact after the registration of the FIR, the matter was investigated by the police in a fair and impartial manner and the statement of various witnesses were recorded. During investigation, it has been found that the petitioner and his co-accused had indulged in illegal mining in the area of Chandimandir, Ramgarh, Mouli, Pinjore and surrounding areas. Deepak, petitioner, used to collect the money for higher officers of mining and police department and they had also created a Whatsapp group with the help of which, they used to inform each other. Deepak, petitioner chatted with the other co-accused and he used to make all arrangements for the police officials, so that they may help the accused in the present case in doing the illegal mining. Learned State counsel further submitted that in the present case, on 28.11.2024, the statements of Amardeep @ Chuchu, Ram Sharan @ Chotu and Adesh Kumar were recorded and the name of the petitioner had cropped up in the statements made by his co-accused. Even, the co-accused got recovered three tippers and one JCB machine, which was used in the commission of the crime. Even, co-accused Sahil Rana was arrested on 04.12.2024 and he also named the present

petitioner. Learned State counsel further submitted that during the course of investigation, on 10.11.2024, the statement of a private witness, namely, Ram Kishor @ Sonu was recorded under Section 183 of the BNSS before the Area Magistrate, who stated that the petitioner used to call him and used to ask him to keep the money, with the further instructions that the petitioner will take money from him later on. Apart from that, the CDR of the accused was also obtained and it was found that the petitioner was in constant touch with Chajja Singh, co-accused and 257 calls were exchanged between them. Even the petitioner was in constant touch with Adesh Kumr, Ram Sharam @ Chotu and Sahil Rana, all co-accused. It was also found that the petitioner alongwith co-accused were the active members of the Whatsapp group Har Har Mahadev, Punjab Transport and Mauli-Barwala Traffic Group, which was managed by the accused and they used to share the information with regard to the movement of police teams/mining officer. Learned State counsel further submitted that the investigation in the present case is at initial stage and the custodial interrogation of the petitioner is required to find out the names of the police officials, mining officials, NGT officials and other public servants who facilitated the accused in the commission of the illegal mining.

5. I have heard learned counsel for the parties and perused the record.

6. While considering the principles, governing the grant of concession of anticipatory bail, the Hon'ble Supreme Court of India has held in the matter of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***, as follows:-

> *"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.*
>
> *Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.*
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> *We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the*

prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment.

Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

7. Still further, the Hon’ble Supreme Court has held in the matter of ***P. Chidambaram Vs. Directorate of Enforcement, (2019) 9 SCC 24,*** that economic offences are a different class of cases and they have to be dealt with strictly. These offences are based on deep rooted conspiracies and huge loss is caused to the State exchequer as well. The Hon’ble Supreme Court in paragraphs Nos. 78 to 81 of the said judgment observed as under:-

"78. Observing that economic offence is committed with deliberate design with an eye on personal profit regardless to the consequence to the community, in ***State***

of Gujarat v. Mohanlal Jitamalji Porwal and others (1987) 2 SCC 364, *it was held as under:-*

"5. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

79. Observing that economic offences constitute a class apart and need to be visited with different approach in the matter of bail, in ***Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439,*** *the Supreme Court held as under:-*

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction *will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations." [underlining added]*

80. Referring to ***Dukhishyam Benupani, Assistant Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria (1998) 1 SCC 52, in Enforcement Officer, Ted, Bombay v. Bher Chand Tikaji Bora and others (1999) 5 SCC 720,*** *while hearing an appeal by the Enforcement Directorate against the order of the Single Judge of the Bombay High Court granting anticipatory bail to the respondent thereon, the Supreme Court set aside the order of the Single Judge granting anticipatory bail.*

81. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent-Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail."

8. Still further, the Hon'ble Supreme Court has held in the matter of ***Ramesh Bhavan Rathod Vs. Vishanbhai Hirabhai Makwana (Koli) & another [(2021) 6 SCC 230]*** as follows:-

> *"24. The principles governing the grant of bail were reiterated by a two judge Bench in **Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496:***
>
> *"9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:*
>
> *(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
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> *(ii) nature and gravity of the accusation;*
>
> *(iii) severity of the punishment in the event of conviction;*
>
> *(iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused;*
>
> *(vi) likelihood of the offence being repeated;*
>
> *(vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail.*

"10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal..."

47. The considerations which must weigh with the Court in granting bail have been formulated in the decisions of this Court in ***Ram Govind Upadhyay v. Sudarshan Singh and Prasanta Kumar Sarkar v. Ashis Chatterjee*** *(noted earlier). These decisions as well as the decision in Sanjay Chandra (supra) were adverted to in a recent decision of a two judge Bench of this Court* ***dated 19 March 2021 in State of Kerala v. Mahesh*** *where the Court observed:*

"22...All the relevant factors have to be weighed by the Court considering an application for bail, including the gravity of the offence, the evidence and material which prima facie show the involvement of applicant for bail in the offence alleged, the extent of involvement of the applicant for bail, in the offence alleged, possibility of the applicant accused absconding or otherwise defeating or delaying the course of justice, reasonable apprehension of witnesses being threatened or influenced or of evidence being tempered with, and danger to the safety of the victim (if alive), the complainant, their relatives, friends or other witnesses...." Similarly, the Court held that the grant of bail by the High Court can be set aside, consistent with the precedents we have discussed above, when such grant is based on non-application of mind or is innocent of the relevant factors for such grant".

9. In the present case also, the prosecution has levelled serious allegations against the present petitioner and his co-accused. At this stage, the police has collected sufficient evidence to show that the petitioner was part of the various Whatsapp groups, which were keeping an eye on the movement of the police officials and officials of mining department. Apart from that, the petitioner and his co-accused had indulged in illegal mining in the area of Chandimandir, Ramgarh, Mouli, Pinjore and surrounding areas and the officials of the police department/local officials of NGT, mining department and other public servants had joined hands with them. Thus, keeping in view the gravity of the offences and need for custodial interrogation of the petitioner, the petitioner is not entitled to the relief of anticipatory bail of the petitioner.

10. Finding no merits, the present petition is ordered to be dismissed.

11. The above observations have been made only for the limited purpose of disposal of the present bail application and shall not be construed as an expression of opinion on the merits of the case.

09.04.2025 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No