

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-412-2025
Reserved on: 17.03.2025
Pronounced on: 25.03.2025

Sajjan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sajal Bansla, Advocate and
Mr. Deepanshu Bansal, Advocate for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
294	28.08.2024	Bilaspur, Distt. Yamuna Nagar, Haryana	318(4) of BNS, 2023 (Sections 111(3), 316(2), 336(3), 338, 340(2) and 61(2) of BNS, 2023 and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1959 added later on)j

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 05 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“At this time, a letter has been received in the Police station from the office of Superintendent of Police, Yamuna Nagar, which is as under: From Mining Officer, Mines and Geology Department, Yamuna Nagar. To, The Station House Officer, Police station Chhachhrauli, District Yamuna Nagar. Memo No. Mining/Yamuna Nagar/3037 dated 23.08.2024. Subject: Regarding misuse of HMGIS portal and taking legal action in this regard. On the subject cited above, you are hereby informed that in this office, through a whatsapp bearing No. 9191164xxxx a complaint was received that MRK Trading Company viallage Jaitpur District Yamuna Nagar (Project ID: 230806001153, mobile No.85699xxxx, E-mail ID: vishl/ynr/989 @gmail.com (copy attached) have been misusing portal and

*issuing wrong e-rawana (dispatch), notices and the details are as under:-
(copies of the e-rawana notices are attached.*

Sr. No.	Ravana (Dispatch) Number	Vehicle Registration Number	Merchant Name	Recipient's name and address
1.	RMDL 24008756777	RJ-07-GE-0990	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
2.	RMDL 24008756874	RJ-07-GF-2517	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
3.	RMDL 24008756928	RJ-44-GA-4161	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
4.	RMDL 24008756962	RJ-07-GF-5286	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
5.	RMDL 24008756976	RJ-07-GF-2291	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
6.	RMDL 24008756990	RJ-07-GF-1389	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
7.	RMDL 24008757030	RJ-07-GD-6333	M/s R.K. Trading Company	M/s Bhagat Singh Stone Crusher (L-1218), village Belgarh, District Yamuna Nagar
8.	RMDL 24009527196	RJ-07-GD-1109	M/s R.K. Trading Company	M/s Baba Rupdass Minerals, Village Bayal, District Mahendergarh
9.	RMDL 24009527198	RJ-07-GD-1941	M/s R.K. Trading Company	M/s Baba Rupdass Minerals, Village Bayal, District Mahendergarh
10.	RMDL 24009527206	RJ-07-GD-1048	M/s R.K. Trading Company	M/s Baba Rupdass Minerals, Village Bayal, District Mahendergarh

Besides this, you are also informed that as per the report of the office of field staff, in fact, there is no unit working in the name and style of M/s. R.K. Trading Company, village Jaitpur. However, still all the above units are engaged in the purchase and sale of the mining material. Therefore, keeping in view of the above, you are required that action be taken against the accused, who are misusing the HMGIS Portal as in terms of the Mining Act 1957 and the provisions of BNS 2023 and they be implicated under various sections and action in accordance with law may be taken against them. DA/as above signed Niranjana Lal Mining Officer, Mines and Geology, Yamuna Nagar. Today, the above said letter bearing No. 9996 dated 28.08.2024 was received in the police station from the office of Superintendent of Police, Yamuna Nagar and on a perusal of the same, commissioning of offence under Section 318(4) of the BNS is made out and accordingly, FIR No.294 dated 28.08.2024 was registered under Section 318 (4) BNS, Police station Bilaspur. The computerized copies of the FIR have been prepared, which shall be sent through post for information of the officers. A copy of the said FIR along with original complaint is being sent for further investigation through SPO Kuldeep Singh, 217 to SI Lakhvinder Singh 147/A incharge Police Post Ranjeetpur, Bilaspur. The entry has been made in the records as per law. The FIR has been registered in the presence of SI Ishwar Chander, A/16.”

4. Counsel for the petitioner submits that petitioner is neither owner of any accused firm nor he is a transporter, he is only employee in a private firm. He further submits on instructions that the petitioner declared all his assets, if State is legally entitled for recovery, they may do so from him in accordance with law. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his 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:

“24. Role of the petitioner:

i) That with regard to the role of the petitioner in the present case it is submitted that as per investigation conducted by the investigating agency till today it was revealed that the petitioner is owner/partner of M/s Bhagat Singh Stone Crusher. The petitioner procured the mining material by way of illegal mining and illegal purchase from co-accused Yogesh Kumar and other stone crushers but with a view to show the said mining material, the petitioner shown the purchase of mining material from R.K.

Trading Company whereas the said R.K. Trading Company is not in operation. Thereafter, the petitioner procured fictitious e-rawanas from the co-accused Raj Kumar @Raj Yadav and Kartar Singh and sold the said mining material in illegal way and thereby caused loss of revenue/royalty to the tune of Rs.1,83,13,739/- (Rupees One Crore Eighty Three Lakh Thirteen Thousand Seven Hundred Thirty Nine) to the government. xxxxxx

27-Requirement of custodial interrogation

That in the facts and circumstances of the case, the custodial interrogation of the petitioners is necessary so that the entire facts of the case may be revealed and could be brought before the Ld. Trial Court. Moreover, there is every likelihood of involvement of other culprits, aiding the petitioner in the commission of present offence and the said details can be revealed only by way of custodial interrogation of the petitioner. Moreover, requires to be interrogated regarding his mobile phone as the mobile phone may be an important piece of evidence in the present case.

28 - Evidence against the petitioner- That during the investigation, sufficient evidence connecting the petitioner with the present offence has been collected and it has been found that the petitioner has committed the aforesaid offence. Beside the statement of the Clerk of the petitioner namely Karam Singh U/s 183 of B.N.S.S., there are statements of other witnesses and during spot inspection of M/s Bhagat Singh Stone Crusher owned by the petitioner 108.43 MT illegal mining material has been found and mobile containing SIM No. 70158-xxxxx belonging to the petitioner has been recovered which shows the active involvement of the petitioner in the commission of present offence. Moreover, the above mentioned the electricity bills pertaining to the stone crusher belonging to the petitioner also shows the involvement of petitioner in the aforesaid offence.”

REASONING:

7. Petitioner has already declared all his assets, if there is any loss or fraud with the State, recovery qua the same could be made from the petitioner. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

8. 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.

9. 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 Ilaqa 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.

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. 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.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven

days, providing an opportunity to avail the remedies available in law.

15. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

25.03.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.