



CRM-M-3134-2025

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**101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-3134-2025

Decided on: 21.01.2025

Harpreet Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manpreet Singh Bhatti, Advocate, for the petitioner.
Mr. Tarun Aggarwal, Sr. DAG, Punjab.
Mr. Ankit Rana, Advocate and
Mr. Mohit Kumar, Advocate, for the complainant.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for grant of anticipatory bail to the petitioner in a case FIR No.306 dated 22.09.2022, registered under Sections 4(1), 21(1) of Mines and Mineral (Regulation and Development) Act, at Police Station Dera Bassi, District SAS Nagar.

2. Succinctly facts of the case are that FIR was lodged by Vikram Singh, JE working as Mining Inspector. It was alleged that the complaint was emailed to the Mining Department in which Bobby Sharma reported illegal mining near the cremation ground in village Sundhra. Upon inspection, illegal mining of soil was found to have taken place without approval from the Mining Department. FIR was registered and the investigation commenced. During the investigation, the land where the mining had taken place was found in possession of the petitioner and thus, he was arrayed as an accused. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, SAS Nagar, for



the grant of anticipatory bail. Learned Court after hearing both the sides, finding no merit in the petition filed by the petitioner, dismissed the same vide order dated 14.01.2025. Hence, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that the FIR was registered on 22.09.2022 and now after about more than two years, the petitioner is being illegally roped in the present case. He submits that ownership or possession of the land in itself is insufficient to implicate the petitioner for the alleged offence. He submits that there is no direct evidence regarding the complicity of the petitioner in the alleged offence. It is submitted that in the report filed by the Mining Inspector, no tool or machinery was found at the spot which could establish the mining activity. He submits that the FIR has been lodged on the basis of presumptions and assumptions. He further submits that no detailed survey or investigation was conducted for the alleged mining activity that took place. He, thus, submits that there being no *prima facie* case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Learned counsel for the complainant has vehemently opposed the submissions made by counsel for the petitioner. He submits that even the village passage has also been demolished on the account of the illegal mining. He, thus, submits that the petitioner does not deserve concession of anticipatory bail.

5. Learned State counsel also vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the



land, where the mining had taken place, was in possession of the petitioner. He has placed on record the photographs provided by the Investigating Officer, which would show that heavy mining had taken place at the site. He submits that the petitioner is required for the serious offence and granting him anticipatory bail would prejudice the ongoing investigation.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that after the registration of the FIR, spot was inspected and the illegal mining was found at the disclosed place. Spot verification was done and the Mining Inspector prepared the report. As per the report, the disputed place where the mining had taken place, was found in the possession of the petitioner. The investigation is at threshold. The photographs produced by the State would also substantiate the allegations made in the FIR. The gravity of the offence cannot be ignored while considering the prayer made by the petitioner for the grant of anticipatory bail.

7. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) of BNSS which reads as under:-

482“Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
2. *When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may*



think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section."*

8. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”



9. Hon’ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

10. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been *prima facie* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

11. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

12. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

21.01.2025
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No