

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-3656-2025
DECIDED ON: 23.01.2025

CHANAN SINGH

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Paras Talwar, Advocate
for the Petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J1. RELIEF SOUGHT

The jurisdiction of this Court has been invoked for the second time under Section 482 B.N.S.S.,2023 seeking grant of anticipatory bail to the petitioner in case FIR No.156 dated 13.10.2023,(Annexure P-1) under Sections 21(1) and 4(1) of Mines and Minerals(Regulation of Development) Act, 1957 registered at Police Station Nangal, District Rupnagar.

2. The contents of the FIR read as under:-

'Copy of the complaint, "TO Naya Nangal Police Post. Subject: Complaint with regard to the Video received from village Bhallan for illegal Mining. On the above subject, it is being written to you that on 09.10.2023 a complaint has been received via video and it was seen that ont eh spot at the coast of Swan river fresh mining has been conducted. Its coordinates are 31.263720,

76.362170 and I is around 10200 Cft. The report with regard to the spot of illegal mining would be obtain from Revenue Department and it is being written to you that vide Section 21(1), 4(1) of MMDF Act 1957 the owner of the land be investigated and proceedings be conducted and its report be conveyed to Sub Divisional Office, Water and Drainage Mining, Nangal. Sd/- Manreet Singh, JE, Dated 12.10.2023 C/c SDO Nangal At XEN, Mining Cum Drainage, Shri Anandpur Sahib." Police Proceedings: Today myself ASI was present Police Post then received at a complaint was Police Post through Manreet Singh JE Mining Department, therefore, for the registration of the case FIR against the unknown owners of the land, complaint file is being handed over to PHG Nirmal Singh and he is being sent to Police Station. After the registration of the case FIR, its number be obtained from the case file. Incharge Control room be informed. Myself ASI along with ASI Harjinder Singh, PHG Anil Kumar is heading towards the spot of occurrence in government vehicle No. PB12Q1330. Sd/- Tejinder Singh ASI PP Naya Nangal, PS Nagal dated 12.10.2023. Withint he boundaries of PP Naya Nangal. At 11:45PM. After receiving the complaint, case proceedings has been FIR registration initiated against unknown owners of mining spot. Proceedings has been completed. MHC has been instructed to maintain the records. Incharge Control Room, Roopnagar is being notified via wireless. Copy of the FIRS will be sent to the service of Area Magistrate and Senior Officers via dak. Original complaing along with copy of the case file is being handed to PHG Nirmal Singh and sent to above ASI Tejinder Singh 191/R on the spot. Completion report No.03 dated 13.10.2023 at 01:00AM.'

3. ***SUBMISSIONS***

ON BEHALF OF THE PETITIONER:

It is contended by the learned counsel for the petitioner that he has been falsely implicated in the present case wherein he the FIR got registered by Manreet Singh JE, on the basis of a video received from Jatinder Pal Singh, who is resident of the said area. He further contends that the petitioner is neither named in the FIR nor has he committed any offence added with the fact that no gravel sand has been recovered from his possession.

Counsel for the petitioner argues that the he has been granted anticipatory bail by coordinate bench in CRM-M-5459-2024 in FIR No. 159 and CRM-M-2493-2025 in FIR No. 147 vide orders dated 25.04.2024 and 17.01.2025 respectively.(Annexure P-3 and P-4)

Notice of Motion

ON BEHALF OF RESPONDENT-STATE:

On the asking of the Court, Mr.Jaspal Singh Guru, Assistant Advocate General, Punjab, who is present in Court accepts notice on behalf of the State of Punjab and has submitted that the petitioner's involvement has been alleged by the complainant on the basis of a video and statement of Jatinder Pal Sharma , resident of that area. Also, two more FIR's on same set of grounds stands registered against the accused meaning thereby, he is an habitual offender involved in committing such crime and due to this reason, the petitioner does not deserve the grant of concession of anticipatory bail.

4. Heard learned counsel for the parties at length.

5. **ANALYSIS AND CONCLUSION**

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner. The perusal of the record in hand shows that the petitioner, being owner of the Stone Crusher is involved in offenses of illegal mining pertaining to two another FIR's on same set of allegations.

No doubt, sand mining being a lucrative industry worth crores of rupees has become a significant problem in the present times causing damage to the environment at large and losses to the state exchequer. Another ecological damage which can be caused by unplanned mining is that it can bring change in the course of natural flow of the river water making the surrounding area prone to water floods.

Also, this court is very much aware of the fact that rampant mining over the Swan River in Punjab has caused damage to the Kalwa-Nangal bridge since July 2023 forcing the nearby natives to take a 30-km detour. Having said so, it shows the inability of the State Government to combat illegal mining which if kept unchecked, would cause havoc in no time to the environment.

Coming to the instant case, the offence involved is heinous in nature and thus no leniency can be expected for the grant of anticipatory bail. The coordinate bench of this court in “ *Satya Nand Vs State of Punjab, 2022 Live Law (PH) 22*” has held that:-

“...The adverse effects of environmental degradation needs no highlighting. Rather, illegal mining can lead to floods and 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 the generations to come. As such, no special case for grant of anticipatory bail is made out. The petition is sans merit and is hereby dismissed”.

More so, it is settled proposition of law that power exercisable under Section 482 BNSS, 2023., is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of **Andhra Pradesh vs. Vimal Krishna Kundu**, AIR 1997 SC 3589, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in **Ram Govind Upadhyay versus Sudarshan Singh**, (2002) 3 SCC 598, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater

is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

6. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required to unfold the illegal activities prevailing in the rivers of Punjab causing devastating effect to the environment. Therefore, in the interest of environment and national security and the gravity of the offence involved, I find no merit in the petition and the same is hereby dismissed.

7. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

23.01.2025
anuradha

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