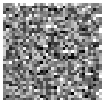


2025:PHHC:020426



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-M-5967-2025
DECIDED ON: 03.02.2025

RAJ KUMAR ALIAS RAJU

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dhawal Bhandari, Advocate
for the Petitioner(through Hybrid Mode)

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J

1. **RELIEF SOUGHT**

The jurisdiction of this Court has been invoked under Section 482 B.N.S.S.,2023 seeking grant of anticipatory bail to the petitioner in case FIR No.105 dated 19.08.2023, under Sections 353, 186, 294,506 of IPC and Sections 21(1) and 4(1) of Mines and Minerals(Regulation of Development) Act, 1957 registered at Police Station Mullanpur, SAS Nagar, Punjab

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

“Request copy number 62/SD/PSMLP dated 19.08.2023, To, Head officer, Mullanpur Garibass, SUBJECT: - IN RELATION TO STOPPING A TROLLEY FULL OF SAND, USING ABUSIVE LANGUAGE AND DISRUPTING OFFICIAL DUTIES. Sir, In context to above, it is an informed that on 18.08.2023 around 8 pm during patrol, we Mr. Ranjit Singh Subedar, Mr.

Mahendra Singh, Mr. Aman Singh Driver, Mr. Karnail Singh Beldar stopped a tractor trolley loaded with sand in front Jayanti Majri Shiv Mandir. On inquiry, it was found that this trolley was being loaded by Raju S/O Banta Singh village Jayanti Majri Jat Gujjar. When I asked them to show me an application or permission, they started abusing me. They didn't have any application Nor any permission. They called many other person on the spot. It was a red colored swaraj tractor having no number on it. They called more persons and more tractors on the spot and forcefully left the spot with tractor full of sand. They used rude words to the officer present on duty that you people come here with your mouth raised, we will do same and stop if you can. During running away with tractor, there could be damage to the life because Mr. Ranjit Singh Subedar stopped them & then they drove out the tractor with force, with which the officer could have come under the tractor. In this way, they fled there with force. They did not even stop after we stopped them, so they have disturbed the go verment duty without caring about the duty. Please take appropriate action against them for such unforgivable behavior, hand-wringing etc. True/- Navdeep Kaur, V Ginch, Jayanti Majri. 8968332477”

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 as a result of hatched conspiracy between illegal sand mafias and corrupt police officials and Forest Officer. He further contends that the petitioner has no nexus with the alleged offence, indeed, the petitioner had procured some sand for constructing his house through legal means by moving an application to the concerned authority(Annexure P-2) and it is due to this reason that he has been falsely roped in by the sand mafias wherein they had intention to sell it illegally at exorbitant prices. Moreover, nothing is to be recovered from the petitioner therefore prays for grants of anticipatory bail.

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 has obstructed the officials of the Forest Department from performing their duty by abusing and threatening them. He further submits that the tractor trolley and stolen sand is yet to be recovered and since the investigation is at the initial stage, there are high chances that the petitioner might tamper with the evidence.

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 allegedly was apprehended red handed at the spot and his presence at the place of incident has been substantiated by forest officials, who had seen the petitioner indulging in loading of sand in his red coloured tractor trolley.

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 sanguine of the fact that rampant mining in Punjab has risen high in no time and one such instance has been

reported recently wherein a resident of Moga was arrested by Jalandhar Rural Police for illegal sand mining and threatening toll plaza employees at gunpoint, used to earn profit of Rs. 1.5-2 lacs daily by selling sand in the open market. 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 as well as the state security.

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 Punjab causing devastating effect to the environment. Therefore, in the interest of environment and 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.

8. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

03.02.2025
Meenu

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