



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-8041-2025
Date of decision: 24th March, 2025

Bhajan Chand

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. VPS Mithewal, Advocate for the petitioner.
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
02	03.01.2025	Nangal, District Rupnagar, Punjab	4(1) of the Mines and Minerals (Regulation and Development Act, 1957) (for short, 'the Act, 1957')

2. The aforementioned FIR was registered on the basis of written complaint lodged by ASI Tejinder Singh alleging therein that on 30.12.2024, on receipt of a complaint from Anuj Tomar, Junior Engineer of Mining Department, Nangal about illegal mining being done by some unknown land owners in the area of village Bhallan, he along with the above said official of mining department had gone to the spot and found illegal mining being done



in the land belonging to the present petitioner. FIR was registered. Investigation proceedings have been initiated and are underway. Apprehending his arrest, present petitioner moved an application for grant of pre-arrest bail before the learned Additional Sessions Judge, Rupnagar, which was dismissed vide order dated 31.01.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case, since no illegal mining was carried out in the land owned by him but it was carried out in some land at a distance of 2-3 kms from his house. FIR has been registered on the basis of a complaint of a police official, whereas no Court can take cognizance of any offence under the provisions of Act, 1957 without except upon complaint in writing made by some authorized person, which has not been done in this case. The custodial interrogation of the petitioner is even otherwise is not required. He is ready to join the investigation. No recovery is to be effected from him. Therefore, it is urged that the petition deserves to be allowed.

4. Status report has been filed by respondent-State. It is argued by learned Assistant Advocate General, Punjab that 10,820 cubic feet of mining material was extracted from area of village Bhallan and from the land alleged to be belonging to the petitioner and thereby violation of provisions of Act, 1957 was committed. Application had been moved to Tehsildar Nangal for conducting demarcation of the land where mining was carried out so as to ascertain the ownership and it has been revealed that the said land was owned by one Hemkunt Crusher. For conducting thorough investigation in the matter, custodial interrogation of the petitioner is required. He has criminal antecedents since he was booked for commission of similar offence



previously. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. The petitioner is alleged to have carried out illegal mining of minerals from the land owned by him. However, it is clear from the status report filed by the respondent that it is not yet clear that the land over which illegal mining was done, was owned by the petitioner. The FIR has been registered on the basis of a complaint of a police official and there is no complaint in writing directly to the Court concerned, in accordance with provisions of Act, 1957 thereby raising a debatable question, as to whether, the cognizance of the offence can be taken. No recovery is to be effected from the petitioner. Given the nature of the allegations, this Court is of the opinion that pre-trial incarceration of the petitioner is not required. Accordingly, the petition is allowed and the petitioner is ordered to be extended benefit of anticipatory bail, subject to his surrender before the learned trial Court within a period of ten days from the date of passing of this order and on his surrender within that period, he shall be released on bail by the learned trial Court on furnishing bonds to its satisfaction and further subject to compliance of the following conditions:-

(i) the petitioner shall cooperate with the investigation and shall appear before the investigating officer/arresting officer as and when required.

(ii) he 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/her from disclosing such facts to the Court or to any Police Officer.

(iii) he shall not commit any similar offence while on bail.

7. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]
JUDGE

24th March, 2025

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No