

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16020-2025 (O&M)

Date of Decision: 24.03.2025

Rajesh Kumar

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Vijaydeep, Advocate for the petitioner

Sandeep Moudgil, J. (Oral)

(1). This petition under Section 528 BNSS has been filed by the petitioners with a prayer to quash the impugned order dated 13.01.2025 (Annexure P5) passed by Sessions Judge, Ambala in Criminal Revision No.107/2024 arising from FIR No.77 dated 15.01.2024 under Sections 21(1), 21(4)(A) of Mines and Minerals (Development and Regulation) Act, 1957 (in short, the MMDR Act) and Section 379 of IPC registered at Police Station HSEB, Ambala.

(2). Learned counsel for the petitioner contends that the truck No.HR-58A-1482 is owned by him and he moved an application before the trial court for its releasing on superdari, however, the trial court dismissed his application by observing that since it was caught second time for violating the provisions of MMDR Act, the confiscation proceedings cannot be initiated and such an offending vehicle will be again used in the similar offence.

(3). It is argued that the respondents cannot be permitted to keep the vehicle in police station at their whims, during the pendency of the present proceedings, as it is a matter of trial as to whether the vehicle owned by the petitioner was actually involved in the commissioning of the offence or not.

(4). Heard learned counsel for the petitioner.

(5). As can be seen from the judgment dated 13.01.2025 (Annexure P5) of the revisional court that the vehicle/dumper of the petitioner was seized as he failed to produce the seizing/checking e-rawaana with regard to the loaded mineral on the said vehicle and as such, the vehicle was retained by the Police Station Ambala for recovery of royalty, price of mineral, penalty and environmental compensation in compliance to the sub-Rule 102 of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 read with Section 21(4) of the MMDR Act and the judgment of the NGT, New Delhi dated 23.04.2019 and 19.02.2020 and resultantly, a complaint was given to the Enforcement Bureau, Police Station Ambala on which the present FIR was lodged.

(6). The courts below took recourse to Section 451 of CrPC and prime-facie examined the material produced before it by the person claiming custody to controvert i.e. seize property was not in any way associated and involved in the commission of crime and passed an order rejecting custody of the property pending conclusion of inquiry or trial. The argument raised on behalf of the petitioner that the courts below without taking into consideration the fact that in the case in hand, the FIR has already been registered under Section 379 IPC and Section 21(1), 21(4)(A) of Mines and Minerals Act, 1957 is liable to be rejected solely on the ground that the petitioner did not compound the alleged offence and instead opted to face the trial to prove his innocence and as such, the revisional court exercised its revisional jurisdiction and rightly revised the order of JMIC, Ambala, however, subject

to deposit of the amount equal to the penalty imposed by the mining authority upon the petitioner on furnishing superdaginama to the satisfaction of the trial/duty magistrate.

(7). Before approaching to the core of the instant petition, it would be apposite to mention Rule 102 of the 2012 Rules, which is reproduced as under:-

(8). The condition to deposit the amount equal to the amount of the penalty is just particularly in the light of the fact that the petitioner himself opted for trial proceedings to prove his innocence, however, he failed to deposit the penalty in compliance to the judgment passed by the revisional court. The prayer for seeking compounding of the offence at this stage, is nothing but a clever tactics for getting the same released on superdari inasmuch as since the petitioner himself pleaded not guilty and has opted for trial, the vehicle in question forms part of the case property and cannot be released at this stage.

(9). In view of the above discussion, there is no merit in the present petition and the same is accordingly dismissed.

(10). Anything stated hereinabove, shall have no bearing on the merits of the case before the trial court.

24.03.2025

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No