



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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1.

CRM-M No.16687 of 2025
Date of decision: April 7th, 2025

Rajender Parshad and another

.....Petitioners

Versus

State of Haryana

.....Respondent
2.

CRM-M No.16757 of 2025

Ajit Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent
3.

CRM-M No.17672 of 2025

Mamta Saini

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanjeev Gupta, Advocate
for the petitioners (in CRM-M-16687-2025).

Mr. Aditya Sanghi, Advocate
for the petitioner (in CRM-M-16757-2025).

Mr. Devender Arya, Advocate
for the petitioners (in CRM-M-17672-2025).

Mr. Rajat Gautam, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J.

This order shall dispose of the above-mentioned petitions filed under Section 482 of the BNNS, 2023, for grant of anticipatory bail to the petitioners, as they arise out of same FIR i.e. FIR No.15 dated 16.04.2024

under Sections 120-B, 420, 467, 468, 471 of the IPC and Section 13(1) of The Prevention of Corruption Act (hereinafter referred to as the 'PC Act'), ACB Gurugram.

2. Learned counsel appearing for the petitioners Rajender Parshad (then Mining Officer), Narender Kumar (Clerk), Ajit Kumar (Data Entry Operator), and Mamta Saini (Guard) contend that they have been falsely implicated in the instant case FIR (Annexure P-1), which pertains to the alleged unauthorized release of vehicles seized for illegal mining during the period from 01.01.2020 to 30.09.2020. It is submitted that the FIR (Annexure P-1) was belatedly registered in the year 2024, nearly four years after the alleged incident, without any plausible explanation for the delay. This unexplained inordinate delay, it is urged, casts serious doubt on the credibility of the allegations and raises a presumption of motivated prosecution.

3. It is further submitted that prior to the lodging of the FIR, no preliminary departmental inquiry was conducted, nor were the petitioners served any show cause notice or afforded an opportunity to offer their explanation. Learned counsel have argued that the entire controversy arises from administrative actions undertaken by the petitioners in the discharge of their official functions, and as such the competent authority ought to have initiated internal disciplinary proceedings or referred the matter to the Vigilance Department before resorting to criminal prosecution. It is also contended that sanction under Section 17-A of the PC Act was erroneously granted without any

determination as to whether the impugned acts were performed with corrupt intent or were merely part of routine administrative functioning.

4. With respect to the alleged release of vehicles, it is submitted by the learned counsel that the petitioners acted upon the sworn affidavits and documents such as insurance papers submitted by the vehicle owners, and that the Environment Compensation imposed was calculated in line with past practice, in the absence of any codified or binding guideline prescribing a specific quantum of fine. No allegation of forgery of any document or illegal recovery is directly attributed to any of the petitioners. Furthermore, reliance is placed on orders dated 23.04.2019 and 19.02.2020 passed by the National Green Tribunal (NGT) as well as on a departmental communication dated 28.01.2020 (Annexures P-5 to P-7), to assert that the release of vehicles was undertaken in compliance with instructions issued by higher authorities, keeping in mind the limitation of parking space and the need for administrative expediency.

5. Learned counsels have also pointed out that petitioners-Rajender Parshad and Narender Kumar had approached this Court earlier by filing CWP No.8744 of 2024 (Rajender Parshad Versus State of Haryana and others) and CWP No.11024 of 2024 (Narender Kumar and others Versus State of Haryana and others), wherein interim protection was granted to them by this Court vide orders dated 24.04.2024 and 13.05.2024 respectively by a coordinate Bench of this Court. In pursuance thereof, the petitioners claimed to have expressed willingness to join the investigation, but assert that they

were never summoned or examined by the investigating agency with respect to the FIR in question.

6. As regards petitioner Ajit Kumar, learned counsel has contended that he was merely serving as a Data Entry Operator and had no substantive or decision making role in the release of seized vehicles. His duties, it is submitted, were purely ministerial in nature, involving data entry into official systems at the instructions of his superior. He was neither authorized nor competent to verify documents, assess penalties, or approve the release of vehicles. It is further submitted that the core functions relating to assessment of Environmental Compensation and sanction for release of vehicles vested exclusively with the Mining Officer and Assistant Mining Engineer. The petitioner, being a junior functionary, merely acted under instructions and had no discretion or authority to act otherwise. No material, it is submitted, has been placed on record to demonstrate any overt act or collusion on his part.

7. Learned State counsel on being put to notice has filed separate replies by way of affidavits of Deputy Superintendent of Police, Anti Corruption Bureau, Gurugram, which are taken on record subject to just exceptions. Copy supplied to the counsel opposite.

8. *Per contra*, learned State counsel, on instructions, has vehemently opposed the prayer and submissions made by the learned counsel for the petitioners, by submitting that the allegations against the petitioners are grave, specific, and well substantiated. It is submitted that the petitioners, while serving in the Mining Department, in collusion with certain private individuals, facilitated the illegal and

arbitrary release of vehicles seized for illegal mining by accepting forged tax invoices and fabricated affidavits submitted by owners of the vehicles. These vehicles were released upon payment of Environmental Compensation amounts significantly lower than those prescribed by binding directions issued by the NGT.

9. It is further contended by the learned State counsel that this deliberate and arbitrary exercise of administrative discretion, in blatant disregard of departmental norms and regulatory safeguards, caused substantial pecuniary loss to the State Exchequer running into several lacs of rupees. It has still further been submitted that the interim protection earlier granted to the petitioners in the writ petitions stood vacated upon the dismissal of the said petitions by this Court vide order dated 04.03.2025, due to their continued non-cooperation with the investigating agency despite repeated opportunities.

10. The attention of this Court has also been drawn by the learned State counsel to the fact that the registration of the present FIR followed a detailed preliminary inquiry, which revealed a well orchestrated collusion between the petitioners and the vehicle owners. The inquiry disclosed that bogus documents were prepared to circumvent the penalty framework laid down by the NGT, with the petitioners acting in concert to facilitate the illegal release of vehicles. It has been argued that the actions of the petitioners, reflect a deliberate design to undermine regulatory control for extraneous considerations.

11. It has still further been submitted that prior sanction under Section 17-A of the PC Act was duly obtained from the competent authority, namely the Commissioner, Gurugram, after examining the role of each of the petitioners. Their active involvement in facilitating

the illegal release of vehicles is evident from the findings of the preliminary inquiry. In view of the seriousness of the allegations and the potential existence of a larger conspiracy, custodial interrogation of the petitioners as per the learned State counsel, is essential for unearthing the *modus operandi*, identifying other potential co-accused and tracing the money trail, particularly with regard to suspected illegal gratification.

12. I have heard learned counsel for the parties and perused the relevant material on record.

13. A perusal of the material on record, including the contents of the FIR and the replies filed by the State, reveals serious and specific allegations against the petitioners, who are public servants, of having abused their official positions for extraneous gains. The allegations, *inter alia*, include the acceptance of forged or unverified documents to facilitate the release of vehicles involved in illegal mining activities, contrary to the binding directions of the NGT. The *prima facie* material indicates that such releases were effected upon payment of Environmental Compensation amount substantially lower than what was prescribed, resulting in quantifiable financial loss to the State Exchequer.

14. The contention of the learned counsel for the petitioners that the FIR is vitiated by delay is not persuasive at this stage. It is well-settled that when a cognizable offence involving public corruption comes to light after an inquiry, the registration of an FIR, even after the passage of time, cannot be said to be barred merely due to delay, especially if the delay is reasonably explained or is attributable to the process of verification and fact-finding.

15. The argument by the learned counsel for the petitioners that no departmental inquiry was held prior to the registration of the FIR is misplaced at this stage while deciding the instant petitions, wherein the petitioners have sought the extraordinary concession of anticipatory bail. The initiation of criminal proceedings is not contingent upon the prior holding of departmental proceedings. Where allegations disclose the commission of cognizable offences, particularly under the PC Act, the State is within its right to investigate through the appropriate agency. Furthermore, sanction under Section 17-A of the PC Act has been obtained, and the role of the petitioners has been clearly delineated.

16. The *prima facie* role of the petitioners and in particular, the role of each of the petitioners has been detailed in the reply filed by the State. The contention that the petitioners merely acted in a clerical or administrative capacity and lacked discretion is contradicted by the material unearthed during the preliminary inquiry, which *prima facie* suggest complicity, collusion, and conscious deviation from prescribed norms. These matters which go to the root of the investigation and cannot be resolved without subjecting the petitioners to custodial interrogation.

17. This Court, therefore, does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioners.

18. Accordingly, the instant petitions stand dismissed.

19. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 7th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes