

Neutral Citation No. 2025:PHHC:047822

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-19035-2025
DECIDED ON: 07.04.2025

ASHOK KUMAR

.... PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. D.V. Dhindsa, Advocate
for the Petitioner.

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.534, dated 20.03.2025,(Annexure P-1) under Sections 21(1) of Mines and Minerals (Regulation of Development) Act, 1957 and Section 303(2) of BNS, 2023, registered at Police Station HSENB, Ambala

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

Sir, the contents are as under: - From Mining Officer, Department of Mines and Geology, Ambala. To, SHO, Enforcement Police Station, District Ambala. Sr. No./Mining Ambala/413 dated 19.03.2025. Subject: Legal action against the driver/owner of Tipper Reg. No. HR-37E-2310 for illegal mining/transportation of core sand (minor mineral) near Raju Dhaba on Ambala Highway from on Road Mulana, in violation of the orders dated 23.04.2019 and 19.02.2020 of

the Hon'ble National Green Tribunal, New Delhi and for mineral theft under Section 303(2) of BNS and Section 21(1) of the MMDR Act. With reference to this office letter No. Mining /Amb SPL-1 dated 14.02.2025. 1. In this regard, you are informed that on 14.02.2025 during a joint inspection by Enforcement Team Members ASI Shri Bhupinder Singh, HC Shri Surinder Singh and the Mining Department, Tipper Reg. No. HR-37E-2310 was caught transporting illegally mined core sand near Raju Dhaba on Ambala Highway from on road Mulana. The driver did not have any e ravana bill at the site. Since the vehicle was found involved in illegal mining and transportation of gravel (Minor Mineral, the mining guard of the department, Shri Sonu, seized the said tipper Rega. No. HR-37E-2310 from Raju Dhabha, Mulana, Ambala and parked it at Sugar Mill, Narainngarh. Haryana State Police Enforcement Station, Ambala, was also informed. (Original copy enclosed). You are also informed that as per Haryana Minor Mineral Concession, Mineral Stocking, Transportation, and Illegal Mining Prevention Rules, 2012, sub-rules 101(10) and 106, if any vehicle, machinery, or equipment is found involved in illegal mining, it is seized on the spot and kept at the concerned police station/Chowki. The royalty, cost, and fine for the minerals from the involved driver/owner, along with the environmental compensation amount as per the order of the National Green Tribunal (NGT) dated 19.02.2020, must be deposited in the government treasury before releasing the vehicle. As per sub-rule 101(10), if the royalty, fine, or cost of minerals for a vehicle caught in illegal mining is not deposited within one month, and as per sub-rule 106, if not deposited within three months, legal action is initiated against the driver/owner under these rules. In this regard, the Hon'ble Punjab and Haryana High Court, Chandigarh, has issued orders on 04.02.2021 in CWP No. 23190-2020 for taking action under these rules. 2. You are informed that the said Tipper Reg. No. HR-11E-2310 was previously caught on 05.07.2023 for illegal mining/transportation and was seized at Police Post Mohra for violating the orders of the Hon'ble National Green Tribunal, New

Delhi, dated 23.04.2019 and 19.02.2020, and for mineral theft. The said dumper was released from the police station on a superdari basis by this office, and it has now been caught again on 14.02.2025 for illegal mining/transportation. 3. The owner/driver of the said Tipper Reg. No. HR-37E-2310, Shri Ashok Kumar son of Shri Ishwar, resident of Badi Ranipur, Mugalwali (259), Yamunanagar, has not yet deposited the penalty, royalty, and mineral price under Sub-Rule 104 of the Haryana Minor Mineral Concession, Mineral Stocking, Transportation, and Illegal Mining Prevention Rules, 2012, nor the environmental compensation amount which is 50% of the ex-showroom value of the vehicle as per the Hon'ble National Green Tribunal, New Delhi's orders dated 23.04.2019 and 19.02.2020, in the government treasury. Therefore, you are requested to take legal action against the driver/owner of Tipper Reg. No. HR-37E-2310, Shri Ashok Kumar son of Shri Ishwar, resident of Badi Ranipur, Mugalwali (259), Yamunanagar, for violating the Hon'ble National Green Tribunal, New Delhi's orders dated 23.04.2019 and 19.02.2020 and for theft of minerals under Section 303(2) of BNS and Section 21(1) of the MMDR Act. This will ensure strict compliance with the Hon'ble High Court's orders and the recovery of government revenue. Please ensure that a copy of the FIR is sent to this office's email (miningofficer.ambalaci@gmail.com). SD- Gurjeet Singh, Mining Officer, For: Mining Officer, Department of Mining and Geology, Ambala."

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 Gurjit Singh, Mining Officer alleging that on 14.02.2025, during a routine checking, a tipper bearing registration No. HR-37-E-2310 was found indulged in illegal mining and the petitioner has been implicated in the present case being the

registered owner of the said vehicle, which does not establish criminal liability. He further contends that the petitioner is neither named in the FIR nor he has committed any offence.

Notice of Motion

ON BEHALF OF RESPONDENT-STATE:

On the asking of the Court, Mr. Chetan Sharma, Deputy Advocate General, Punjab, who is present in Court accepts notice on behalf of the State of Haryana and has submitted that the petitioner is the registered owner of the tipper and is indulged in the business of illegal minning.

Heard learned counsel for the parties at length.

4. 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 vehicle involved in offenses of illegal mining.

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.

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.”

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 State of Haryana causing devastating effect to the environment. Therefore, in the interest of environment and national security and the gravity of the offence involved, this Court does not find any merit in the present petition and the same is hereby dismissed.

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

07.04.2025

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