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(206)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision : 25.09.2025

SUDAGAR SINGH

... Petitioner

Versus**STATE OF PUNJAB**

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 BNSS, 2023 is for the grant of anticipatory bail to the petitioner in case FIR No.110 dated 18.09.2023 registered under Sections 379 IPC, 21 of Mines and Minerals (Development and Regulation) Act, 1957 at P.S. Koom Kalan, District Police Commissionerate Ludhiana.

2. The brief facts of the case are that SI Bhupinder Kumar of Police Station Koom Kalan, Ludhiana along with HC Harvinder Singh No.1065/LDH and Constable Mandeep Singh No.3780/LDH, while on routine patrol duty in a private vehicle, were present at the Bus Stand of village Baude. At that time, a secret informer approached and conveyed specific information that illegal sand mining was being carried out on the common land of village Kalewal with the assistance of a Poclain Machine. The informer further disclosed that the extracted sand was

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being loaded on tippers and trollies for transportation to Ludhiana for sale at higher rates. The informer also provided details of the Poclain Machine, describing it as turquoise in colour, bearing the inscription "KOBELCO," manufactured by Thai Kobelco Construction Machinery Ltd., Model SK140LC-8, Serial No. YP09-T0172. It was further informed that if a raid was conducted promptly, the Poclain Machine, along with its unidentified driver and the vehicles engaged in the activity, could be apprehended. Considering the information to be reliable, SI Bhupinder Kumar, along with the police party, immediately proceeded to the spot. A Tata Tagon Nine patrol vehicle was also called to reach the location. From the information received, offences under Section 379 IPC and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 were found to be made out. Accordingly, a ruqqa was prepared and handed over to Constable Mandeep Singh No. 3780/LDH for the purpose of registration of a case. Consequently, FIR No. 110 dated 18.09.2023 under Section 379 IPC and Section 21 of the Mines and Minerals Act, 1957 came to be registered against unknown persons, thereby setting the criminal law into motion.

3. After registration of the FIR, SI Bhupinder Kumar, along with the police officials, reached the place of occurrence at village Kalewal, where the Poclain Machine was found engaged in sand extraction from shamlat land. On seeing the police party, the driver of the said machine fled from the spot. The turquoise-coloured Poclain Machine, bearing the inscription "KOBELCO," manufactured by Thai

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Kobelco Construction Machinery Ltd., Model SK140LC-8, Serial No. YP09-T0172, was found parked at the site while extracting sand. The machine bore no number plate. The driver could not be apprehended despite search. The said Poclain Machine was taken into police possession.

4. During investigation, on 15.02.2024, the investigation of the case was entrusted to ASI Harjeet Singh. On 03.06.2025, a secret informer disclosed that illegal sand mining, subject matter of the present FIR, had been committed by Sudagar Singh (petitioner) son of Avtar Singh, resident of Village Garhi Sheru, Police Station Meharban, Ludhiana. It was further informed that the turquoise-coloured Poclain Machine bearing the mark "KOBELCO," which had been recovered from the spot, belonged to the petitioner. On the basis of the facts revealed during investigation, Sudagar Singh was nominated as an accused in the present case vide GD No. 27 dated 03.06.2025.

5. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case only because his Poclain Machine was recovered from the spot of the illegal mining. The recovery already stands effected. As he has joined investigation, he is entitled to the concession of anticipatory bail.

6. A status report dated 17.09.2025 by way of an affidavit of Jasbinder Singh, PPS, Asstt. Commissioner of Police, Industrial Area-A, Ludhiana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he



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contends that when the raid was conducted it was found that certain persons were extracting sand from the Shamlat land but fled away on seeing the police party. The Poclain Machine bearing inscription "KOBELCO," manufactured by Thai Kobelco Construction Machinery Ltd., Model SK140LC-8, Serial No. YP09-T0172, was found parked at the site while extracting sand and has been found to be owned by the petitioner. He is an accused in six other cases 5 of which are of a similar nature. As the offence stands *prima facie* established, the modus operandi of the commission of the offence is to be ascertained along with the names of other accused involved in the illegal mining and for the investigation to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required and therefore, he is not entitled to the concession of anticipatory bail.

7. I have heard the learned counsel for the parties.

8. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part



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that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should***



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consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

9. As per the prosecution case, when the police party reached the spot, the driver of the Poclain Machine extracting sand from the Shamlat land fled away. Admittedly, the machine is in the ownership of the petitioner who has not furnished any cogent reason for it's usage in illegal mining.

10. The petitioner is a habitual offender with six other cases registered against him. The details of the same are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station
1.	FIR No.147 dt. 02.09.2015	U/s 379 IPC and 21 Mines and Minerals (Development & Regulation) Act	P.S. Meharban, District Ludhiana
2.	FIR No.53 dt. 13.05.2019	U/s 323, 341, 325, 326, 307, 427, 506, 148, 149 IPC	P.S. Meharban, District Ludhiana
3.	FIR No.33 dt. 27.04.2012	U/s 21 Mines and Minerals (Development & Regulation) Act	P.S. Meharban, District Ludhiana
4.	FIR No.130 dt. 30.10.2012	U/s 379 IPC and 21 Mines and Minerals (Development & Regulation) Act	P.S. Machhiwara, Police District Khanna
5.	FIR No.172 dt. 01.07.2018	U/s 21 Mines and Minerals (Development & Regulation) Act	P.S. Phillaur, District Jalandhar Rural
6.	FIR No.24 dt.	U/s 21(1), 4(1) Mines	P.S. Aur, District



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	29.04.2023	and Minerals (Development & Regulation) Act	SBS Nagar
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11. In order to unravel the truth and the modus operandi to commit the offence as also to know the identity of the other accused, the custodial interrogation of the petitioner is certainly required. Even otherwise, the commission of the offence stands *prima facie* established.

12. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

13. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

25.09.2025

JITESH

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