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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH  
(283)

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Date of decision: 28.08.2025

Raj Kumar ..... Petitioner

V/s

State of Punjab ...Respondents

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. V.P.S. Mithewal, Advocate,  
with Mr. H.V. Gupta, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

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**JASJIT SINGH BEDI, J. (Oral)**

The prayer in the present petition under Section 482 of BNSS, 2023 is for the grant of anticipatory bail to the petitioner in case FIR No.168 dated 04.12.2024 under Sections 21(1), 4(1) of the Mines and Mineral (Development and Regulation) Act, 1957 (hereinafter referred to as "1957 Act"), registered at Police Station Nangal, Distt. Rupnagar, Punjab.

2. The present FIR came to be registered at the instance of Anuj, JE Nangal and reads as under:-

*To, The Station House Officer Police Station Nangal Subject- Regarding Illegal Mining at Village Khera Kalmot. In relation to the above subject today dated 4/12/2024 undersigned along with Senior Officers of Mining Department and field staff did checking regarding mining at Village Khera Kalmot. During this time in the mountains of Village Khera Kalmot Lat. 31.308632, Long-76.286830 Didhe Jana fresh mining marks were found of No.1 Poklain Machine, Colour Yellow Make*

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*Volvo VCEL 303699259791 was found standing near the above mining site. During this time, no person was found on checking the surrounding areas. Due to the night time in the above area, the calculation regarding the amount of illegal mining could not be done. It is written to you that appropriate action should be taken against the Machinery and Section 21 (1) and 4(1) of the Mining Act 1957 involved in illegal mining in this area and to inform the office of the undersigned regarding the action taken. SD/-Anuj JE.*

3. The learned counsel for the petitioner contends that the instant FIR is not maintainable as the offence under the Act is non-cognizable. Be that as it may, taking the allegations to be correct, no case for custodial interrogation is made out as no recovery is to be effected from the petitioner. He, therefore, contends that the petitioner is entitled to the concession of anticipatory bail.

4. The learned counsel for the State, on the other hand, contends that during the course of investigation, it was found that the petitioner had taken a crusher and land measuring 17 Kanals 04 Marlas being 2/3rd share of the land measuring 25 Kanals 17 Marlas situated in village Nangran, Kalmot on rent from Prem Singla. Illegal mining was being conducted on the said land. A Pocklain Machine Colour Yellow make *Volvo VCEL 303699259791* was found lying parked there. On measurement of the land from which the illegal mining was conducted, it has been found that illegal mining to the extent of 50000 cft. has been conducted. He submits that the petitioner is a habitual offender being an accused in four other cases of a



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similar nature. Further, the offences are cognizable as per Section 21 of the Act. He, thus, prays that the present petition for the grant of anticipatory bail is liable to be dismissed.

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

6. Before proceedings further, it would be apposite to refer to the relevant provisions of the Mines and Mineral (Development and Regulation) Act, 1957 and they are reproduced as under:-

***4. Prospecting or mining operations to be under license or lease. -***

*(1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a mineral concession or of a or of a exploration licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder:*

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with the terms and conditions of a prospecting license or mining lease granted before the commencement of this Act which is in force at such commencement:

[Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, ] [ Inserted by Act 37 of 1986, Section 2 (w.e.f. 10.2.1987).][the Atomic Minerals Directorate for Exploration and Research] [ Substituted by Act 38 of 1999, Section 5, for " the Atomic Minerals Division" (w.e.f. 18.12.1999).][of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited, a Government company within the meaning of [clause (45) of section 2 of the Companies Act, 2013, and any other entities including private entities that may be notified for this purpose, subject to such conditions as may be specified by the Central Government"]

[Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease, mining concession or by any other name) in force immediately before the commencement of this Act in the Union territory of Goa, Daman and Diu.]



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*(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.]*

*(2) [No [mineral concession], shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder.*

*(3) Any State Government may, after prior consultation with the Central Government and in accordance with the rules made under section 18, [undertake reconnaissance, prospecting or mining operations with respect to any mineral specified in the First Schedule in any area within that State which is not already held under any [mineral concession].*

**21. Penalties.** - *[(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.*

*(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.]*

*(3) [ Where any person trespasses into any land in contravention of the provisions of sub-section (1) of section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.]*

*(4) [ Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral*



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*from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer of authority specially empowered in this behalf.*

*(4A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the Court competent to take cognizance of the offense under sub-section (1) and shall be disposed of in accordance with the directions of such Court.]*

*(5) [ Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.]*

*(6) [ Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offense under sub-section (1) shall be cognizable.]*

***Explanation.***—*On and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the expression “raising, transporting or causing to raise or transport any mineral without any lawful authority” occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence, [exploration licence] or in contravention of the rules made under section 23C.]*

**22. Cognizance of offences:-** *No Court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorized in this behalf by the Central Government of the State Government.*

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7. A combined reading of Section 21 and 22 of the Act would reveal that an FIR is certainly maintainable for the contravention of provisions of Sub Section (1) or Sub Section 7A of Section 4 of the Act. The only requirement of law is that when the report under Section 193(2) BNSS is submitted it should be accompanied by a formal complaint of an officer mentioned in Section 22 of the Mines and Mineral (Development and Regulation) Act, 1957. Reliance is placed on *Ila Sood versus State of Punjab 2022(2) RCR (Criminal) 875* wherein under the PNDT Act, there are provision analogous to those under the Mines and Mineral (Development and Regulation) Act, 1957.

8. As regards the merits of the case, admittedly, the petitioner had taken a crusher and land measuring 17 Kanals 04 Marlas being 2/3rd share of the land measuring 25 Kanals 17 Marlas situated in village Nangran, Kalmot on rent from Prem Singla, where illegal mining was being conducted. A Pocklain Machine Colour Yellow make *Volvo VCEL 303699259791* was found lying parked there. On measurement of the land from which the illegal mining was conducted, it has been found that illegal mining to the extent of 50000 cft. has has been conducted.

9. Further, the petitioner is an accused in four other cases of a similar nature arising out of FIR No.24 dated 22.02.2025 under Sections 21(1), 4(1) of the Mines and Minerals (Regulation & Development Act, 1957, Police Station Nangal, Distt. Roopnagar, FIR No.49 dated 15.06.2023 under Sections 21(1), 4(1) of the Mines and Mineral (Development and

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Regulation) Act, 1957, Sections 420, 465, 468 IPC (471 IPC added later on) Police Station Rahon, Distt. SBS Nagar, FIR No.17 dated 17.02.2020 under Sections 21(1), 4(1) of the Mines and Mineral (Development and Regulation) Act, 1957, Police Station Nurpur Bedi, Distt. Rupnagar and FIR No.135 dated 03.10.2021 under Sections 21(1), 4(1) of the Mines and Mineral (Development and Regulation) Act, 1957, Section 379 IPC, Police Station Nurpur Bedi, Distt. Rupnagar.

10. The Hon'ble Supreme Court in the case of '**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977**', has 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 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*



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*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 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.”*

11. In view of the fact that the FIR is maintainable, the offence stands *prima facie* established, the petitioner is a habitual offender and the

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investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

12. Therefore, I find no merit in the present petition and the same stands dismissed.

13. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

14. The pending application(s), if any, shall stand disposed of accordingly.

**August 28, 2025**  
sukhpreet

**( JASJIT SINGH BEDI)**  
**JUDGE**

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