



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

2025:PHHC:076092



CRM-M- 32359 of 2025 (O&M)
Date of Decision:- 13.06.2025

Gurdial Singh Kachure

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: **HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE**

Present:- Mr. Lakhwinder Singh Mann, Advocate, for the petitioner.
 Mr. Jastej Singh, Addl. Advocate General, Punjab.

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SHEEL NAGU, CHIEF JUSTICE (Oral)

The petitioner apprehends his arrest in respect of offences punishable under Section 303(2) of the Bharatiya Nyaya Sanhita-2023 and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 in FIR No. 101 dated 19.05.2025 registered at Police Station Shahkot, District Jalandhar (Rural).

2. The prosecution story reveals that a JCB machine indulging in illegal mining in river Satluj was intercepted by the police. The driver of the said JCB machine fled away from the spot. The JCB was found to be registered in the name of the petitioner.

3. Learned counsel for the petitioner by relying upon a resolution of the Gram Panchayat dated 18.05.2025 (Annexure P-3) submits that the petitioner had been given contract for filling mud at the water tank of the village.



4. Learned counsel for the petitioner has also disputed that JCB machine was extracting sand from the road and contended that the same was present in the village on the road to commence earth work which was allotted to the petitioner by way of resolution of Gram Panchayat (Annexure P-3). Learned counsel for the petitioner has also relied upon Section 41-A of the Code of Criminal Procedure (Section 35 of BNSS-2023) to contend that reasons and grounds of arrest have not yet been communicated to the petitioner.

5. As regards the last ground, this Court is of the considered view that the grounds and reasons of arrest are to be communicated to the person at the time of arrest whereas in the present petition the petitioner merely apprehends arrest and has not yet been arrested.

5.1 More so, the decision of the Apex Court rendered in ***Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273***, has been doubted as regards its application to the practicalities of life, by the Apex Court in the matter of ***Mihir Rajesh Shah vs. State of Maharashtra and another SLP (Crl.) No. 17132 of 2024***, which has been heard and reserved for passing orders. In such circumstances, when the Apex Court has doubted the verdict of Arnesh Kumar (supra), it would be appropriate to await the verdict of Apex Court instead of applying the verdict of Arnesh Kumar.

6. So far as the disputed question of fact which has been raised by learned counsel for petitioner about the availability/non-availability of JCB machine at the relevant spot is concerned, the same is matter of evidence which is the domain of the trial Court and not of this Court while considering the prayer for bail.



7. This Court casts serious doubt about the authenticity and genuineness of the resolution of the Gram Panchayat (Annexure P-3) since the date of the said resolution is the same as the date of incident and the possibility of the said document being manufactured cannot be ruled out. However, this Court does not comment upon the merits of the matter since the same are within the domain of the trial Court.

8. In view of the above and the fact that humanity has suffered enough environmental damage especially to the river as well as to the environment at large, the offence of illegal mining in rivers needs to be taken in all seriousness despite less punishment prescribed under the said Act and therefore, this Court deems it appropriate not to interfere in the matter. Accordingly, the petition for grant of anticipatory bail to the petitioner stands dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

13.06.2025
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√