

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.21404 of 2015**

Arising Out of PS.Case No. -27 Year- 2015 Thana -MADANPURA District- AURANGABAD

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Ganesh Prasad Chauhan @ Ganesh Prasad Chouhan Son of Late Chamtu Prasad Chauhan resident of village - Sinidih, P.S. Madhuban, District - Dhanbad ( Jharkhand )

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Ms. Leelawati Kumari, Adv.

For the Opposite Party/s : Mr. Anuj Kumar Srivastava(APP)

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**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**  
**ORAL ORDER**

3      20-08-2015

Heard learned counsel for the parties.

The petitioner, facing prosecution for offence under Sections 167, 468, 471, 120(B), 406, 420 of the Indian Penal Code, has come out with a defence for the purpose of grant of anticipatory bail that when his truck was seized by the police officials, there was nothing illegal being committed by the petitioner, inasmuch as, not only the vehicle, in question, being registration no. JH10X/0485 and JH09U/1211 had valid papers issued by the officials of the Transport Department but even the consignment of coal in the truck being carried by the drivers was based on the authentic dispatch memo of the concerned coal company. Learned counsel for the petitioner has also submitted that the petitioner has got no criminal antecedent.



This Court had called for the case diary and from the case diary it does not appear that examination of the team of officers, who had seized the vehicle, has been done by the police in course of investigation in a period of five weeks, inasmuch as, the case diary received in this Court contains only of investigation up to 1.4.2015 i.e. up to paragraph no. 23. From paragraph no.20, it, however, transpire that the case was supervised by the Sub-Divisional Police Officer and certain directions were given to the Investigating Officer with regard to finding out the details of the consignment of coal and the papers of the seven trucks seized by the police party.

Learned counsel for the petitioner has produced certain papers of Sales-Tax Department to justify that whatever papers were seized by the police party from the petitioners of the aforesaid two vehicles were valid.

In that view of the matter, this Court would direct the petitioner, namely, Ganesh Prasad Chauhan @ Ganesh Prasad Chouhan to surrender before the court below within a period of four weeks from today, whereafter, he shall be given provisional bail for a period of three months on furnishing bail bond on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Chief



Judicial Magistrate, Aurangabad in connection with Madanpur P.S. Case No. 27 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) The petitioner, immediately after being released on provisional bail, shall report to the officer-in-charge of Madnapur police station and produce all the relevant papers relating to the vehicles as also the consignment of coal which shall be verified from the papers seized by the police party from the drivers of the two trucks of the petitioner. If the investigating Officer is satisfied that all the papers of the petitioner were legally valid, the investigating officer, upon making his own investigation in respect of the document produced by the petitioner, will submit his report to the trial court within a period of six weeks from the date of the petitioner appearing before him (Investigating Officer), namely, Officer-in-Charge of Madanpur police station and if the trial court finds that there is satisfactory report with regard to document seized from the driver of the petitioner, it shall confirm the provisional bail granted to the petitioner. On the other hand, if the documents seized from the drivers of the petitioner are found to be forged/illegal and also not capable of being explained by the petitioner, the provisional bail of the petitioner shall be cancelled

and he shall be taken into custody.

(ii) That both the bailors will be a close relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.

(iii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.

(iv) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(v) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

**(Mihir Kumar Jha, J)**

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