

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51560 of 2015

Arising Out of PS.Case No. -38 Year- 2011 Thana -GOVERNMENT OFFICIAL COMP. District-
SASARAM (ROHTAS)

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Arun Kumar son of Late Ayodhya Prasad resident of Village - Hurka, P.S. -
Tilauthu, District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra

For the Opposite Party/s : Mr. M.K.Khare(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 10-12-2015 Heard learned counsel for the petitioner and learned A.P.P.
for the State.

The petitioner apprehends his arrest in connection with
Forest Case No. 38 of 2011 for the offences alleged under
Sections 33, 41, 42 and 63 of the Indian Forest Act, 1927.

The prosecution case is that one Rajeshwar Singh, Forester
(Wanpal), Tilauthu, forest area, district-Rohtas filed a complaint in
the court of Chief Judicial Magistrate, Rohtas stating therein inter
alia that he along with duly constituted raiding party of Forest
Officers were on patrolling duty on 27.08.2011 and at about 11
A.M. when they reached at Fazilpur restricted forest region, they
saw that the illegal mining work of stone at restricted area of
Fazilpur was being carried out by crossing the boundary of
Basagair Forest Region. It has further been alleged that Arun
Kumar who is lease holder of nearby area has destroyed the



boundary line and pillar of the forest department and after crossing the said area, has abstracted the stone from the total area of 3" x 1 ½" x 120" of Fazilpur reserved area, thus making the total loss to the tune of Rs.16,200/-. It has been further stated that the Fazilpur is restricted reserved forest area vide Notification dated 21.02.1969 and without taking permission from the Government, no work can be done in the said area and accordingly the petitioner named above has committed the offence under the Indian Forest Act and, therefore, liable for the legal action. The Divisional Forest Office, Rohtas has granted the sanction for prosecution.

It has been submitted by learned counsel for the petitioner that the petitioner is a lease holder for mining of sand stone under the Bihar Minor Minerals Rules, 1972 by a lease deed dated 25.06.2007 for a period of five years. The petitioner was doing the mining work of stone within his prescribed lease area and he has not travelled beyond the said lease area. It has further been submitted by learned counsel for the petitioner that a bald statement has been given without any cogent material as to what was the area travelled beyond the lease area and no demarcation point has been explained in the said complaint case. Further more, it has been submitted by learned counsel for the petitioner that a complaint case bearing No.1014 of 2009 has been lodged against the complainant and one Suresh Kumar Pathak (Ranger) for the

offences alleged under Sections 419, 420, 386 and 384 of the Indian Penal Code for illegal demand of money in which cognizance has already been taken against the complainant and another and it is only because of inimical terms that this false case has been lodged against the petitioner.

Be that as it may let the petitioner, namely, Arun Kumar, in the event of his arrest/surrender before the court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each in connection with Forest Case No.38 of 2011 to the satisfaction of the learned Chief Judicial Magistrate, Rohtas subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

However, it is made clear that since the petitioner is an accused in cases of similar nature, that is, Forest Case No.45/2010, Forest Case No. 4/2011, Forest Case No. 11/2011, Forest Case No.1064/2011 and Forest Case No.170/2012, if the petitioner in future is found to be involved in a case of similar nature, the court below shall be at liberty to cancel the bail bonds of the petitioner without being prejudiced by this order.

V.P.Sinha/-

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(Nilu Agrawal, J)