

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28779 of 2017

Arising Out of PS.Case No. -5 Year- 2017 Thana -BIHTA District- PATNA

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Raj Kumar S/o - Vishwanath @ Vishwanath Singh R/o Jhunjhun Road, Danapur,
P.S. - Danapur, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Director, Department of Mines, Bihar, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 10-08-2017

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. By order dated 13.07.2017, learned counsel for the
petitioner was directed to implead the Mines Department as opposite
party no. 2 and serve two sets of the application upon learned counsel
appearing for the opposite party no. 2 within one week from today.
Today, when the matter is taken up, learned counsel for the petitioner



submitted that though he has impleaded the Director, Department of Mines, Bihar as opposite party no. 2 but copies of the application have not been served on him.

3. In that view of the matter, the Court has heard the matter on merits.

4. The petitioner apprehends arrest in connection with Bihta P.S. Case No. 5 of 2017 dated 08.01.2017 instituted under Sections 147/149/379/120B of the Indian Penal Code and 39/40/41 of the Mining Act.

5. The allegation against the petitioner is that his Pokalane machine, which is used for digging up sand, was doing the job illegally and thus was seized.

6. Learned counsel for the petitioner submitted that he was unaware of the activity as it was the driver who was responsible for the same and further that the machine was standing there for repairs.

7. When the Court called upon learned A.P.P., it could not get any assistance.

8. From the F.I.R. itself, it is clear that the machine belonging to the petitioner was found digging up sand illegally and the plea that it was the driver who was responsible, and the vehicle



was standing for repairs is absolutely unbelievable. The costly machine used of specific purpose cannot be used without the active approval and connivance of the owner and the petitioner being the same, cannot be said to be innocent.

9. For the reasons aforesaid, the Court is not inclined to enlarge the petitioner on anticipatory bail.

10. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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