

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41719 of 2017

Arising Out of PS.Case No. -10 Year- 2006 Thana -GOVERNMENT OFFICIAL COMP. District-
SASARAM (ROHTAS)

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Arun Kumar Mishra son of Sri Narsingh Mishra, resident of village -
Padhauti, P.S. Bhagwanpur, District -Kaimur.

.... Petitioner/s

Versus

1.The State of Bihar
2.Director, Department of Mines and Minerals

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate
: Mr. Bhaskar Shankar, Advocate
For the State : Mr. Ramchandra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 22-09-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection with
Forest Case No.10 of 2006 registered under Sections 33, 41 and 42
of the Indian Forest Act, 1927 (Bihar Amendment Act, 1989).

The prosecution case is based upon a written complaint
of Forest Range Officer, Darigaon, Sasaram which was filed on
26.06.2006 stating therein that on 25.06.2006 on secret
information Fazilpur protected forest was raided and one Sonalika
International Tractor, Compressor Machine, Drill Machine Pipe
were seized as the labourers and others, who were mining the
protected forest area fled away after seeing the forest officials.



Mr. Krishna Prasad Singh, learned Senior Advocate appearing on behalf of the petitioner submitted that the petitioner was not named in the complaint filed by the officials of the Forest Department. He submitted that as it was an official complaint, the learned Magistrate took cognizance of the offence in exercise of powers conferred under Section 190(1)(a) of the Code of Criminal Procedure (for short 'the CrPC'). However, no enquiry into the matter was ever conducted by the learned Magistrate and he waited for further reports to be filed by the Forest Range Officer which was firstly filed on 21.07.2006 in which also name of the petitioner does not find place and secondly another report dated 28.11.2007 was sent to the court on 23.03.2011 on the basis of which exercising his powers under Section 204 of the CrPC issued process against the petitioner. He contended that in a complaint case unless the court directs the investigation to be made by a police officer or by such other officer as he thinks fit under Section 202(1) of the CrPC. The complainant is not authorized to file further prosecution report and, thus, by adopting wholly erroneous procedure, the learned Magistrate has summoned the petitioner.

Opposing the application for grant of pre-arrest bail to the petitioner, Mr. Ramchandra Singh, learned Additional Public



Prosecutor for the State submitted that there is no illegality in issuing process against the petitioner as in the further report submitted by the Forest Range Officer it was disclosed that at the behest of the petitioner illegal mining in the forest reserve area was being done. He submitted that there is mandate in law that the complainant in official complaint can file further reports of discovery of further materials.

Be that as it may, considering the totality of facts and circumstances of the case, the petitioner named above is directed to be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Rohtas at Sasarm in connection with Forest Case No.10 of 2006, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, in the event of arrest or surrender before the court below within six weeks.

(Ashwani Kumar Singh, J)

Md.S./-

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