

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50768 of 2017

Arising Out of PS.Case No. -48 Year- 2017 Thana -BARABAR TOURIST District- JEHANABAD

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Vishwakarma Kumar Son of Baleshwar Mahto, R/o Village- Panchu Bigha,
P.S.- Rafiganj, District- Aurangabad.

.... Petitioner/s

Versus

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

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar, Adv.
For the Mines Deptt. : Mr. Naresh Dikshit, SPL. P.P.
For the Opposite Party/s : Mr. Sri S. Ehteshamuddin, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 30-11-2017 Heard learned counsel for the petitioner, learned

counsel appearing on behalf of the Mines Department and learned

APP for the State.

Petitioner seeks bail in connection with Barabar
Paryatak P.S. Case No. 48 of 2017 for offences punishable under
Sections 379, 420 of the Indian Penal Code and Rule 40/49 of the
Bihar Minor Mineral Concession Rules and Rule 5/8 of the Bihar
Illegal Mining Transportation Storage Rules.

The prosecution case, as lodged by the competent
officer of the Mines Department, is that on information with the
help of the police they raided the place from where one truck and
J.C.B. were lifting sand. However, some of the co-accused along



with the truck managed to flee away and J.C.B. containing 1000 cft. sand along with the driver who was the petitioner was apprehended. Accordingly, a seizure list was prepared.

It has been submitted by the learned counsel for the petitioner that he is innocent, he was just a driver of the said J.C.B. and bears no criminal antecedent. He submits that the seizure list does not contain the sand in the J.C.B. and that both witnesses are outsiders and not local persons. He further submits that charge-sheet has already been submitted and the petitioner is languishing in judicial custody since 17.08.2017.

However, learned counsel for the State and Mines Department vehemently oppose the prayer for bail stating therein that the petitioner was caught red handed and the witnesses have supported the prosecution story.

Considering the facts and circumstances and the materials on record, let petitioner, above named, be enlarged 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 J.M., 1st Class, Jehanabad in connection with Barabar Paryatak P.S. Case No. 48 of 2017, subject to the conditions that :

- (i) Both the bailors would be close relative of the petitioner



having sufficient immovable property, who will file an affidavit stating their relationship with the petitioner.

- (ii) Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.
- (iii) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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