

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20351 of 2018

Arising Out of PS.Case No. -8 Year- 2018 Thana -JAMHORA District- AURANGABAD

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Ashraf Ali S/o Md. Asgar Ali, R/o Vill.- Jogiya, P.O.- Jogiya, P.S.- Barun,
District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Singh

For the Opposite Party/s : Mr. Smt. Reena Sinha

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 17-04-2018

Heard Mr. Shailesh Kumar Singh, learned

counsel for the petitioner and Mrs. Kalpana, learned counsel for
Department of Mines.

The petitioner is apprehending his arrest in a
case registered for the offences punishable under Sections
379/411 of the Indian Penal Code and Rules 3/4/5 of Bihar
Minerals (Prevention of Mining, Transportation and Storage)
Rules, 2003 (Amendment Rules, 2014).

The prosecution case got initiated with the
written report of Assistant Sub-Inspector of Police, Jamhore P.S.
dated 16.01.2018 submitted to the Station House Officer,
Jamhore P.S., District – Aurangabad, to the effect that during
patrolling duty secret information was received that near the



embankment of Batane river, the husband of the Tengara Panchayat Mukhiya, Asgar Ali is getting the sand illegally mined and transported, consequently the informant reached to the place and saw that sand was being loaded on a tractor. However, the tractor driver and the persons loading the sand tried to escape from the scene, but two persons namely, Asgar Ali and Fakhruddin Ali were apprehended, who admitted the illegal transportation of the sand. The petitioner is the owner of the tractor in question.

It is submitted by learned counsel for the petitioner that the petitioner was not aware about the tractor being used for transportation of the sand. Admittedly, the petitioner was not present on the tractor in question at the time of seizure and a statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned counsel for Department of Mines that the sands were being carried at the instruction of the petitioner and due to the illegal mining the State exchequer is suffering great loss.

Considering the fact that the thrust of accusation is against the driver, who actually responsible for sand being loaded illegally for transportation, and the petitioner was not



present at the time of seizure coupled with the statement made in paragraph no. 3, that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Jamhore P.S. Case No. 08 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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