

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5687 of 2018

Arising Out of PS.Case No. -421 Year- 2017 Thana -ISLAMPUR District- NALANDA
(BIHARSHARIFF)

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Sujit Kumar @ Bindo S/o Sri Suresh Prasad, resident of Jaitipur, Kaintiya
Par, P.S.- Islampur, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Assistant Director, Mines & Geology Department, Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anujit Sinha, Advocate

For the State : Smt. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 12-02-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection with
Islampur P.S. Case No.421 of 2017 registered under Section 379
of the Indian Penal Code, Rule 40 of the Bihar Minor Mineral
Concession Rules, 1972 and Rule 8(d) of the Bihar Minerals
(Prevention of Illegal Mining, Transportation and Storage) Rules,
2003.

It is submitted by the learned counsel for the petitioner
that no prosecution can be launched against any person for
violation of any Rule under the Bihar Minor Mineral Concession
Rules, 1972 or the Bihar Minerals (Prevention of Illegal Mining,
Transportation and Storage) Rules, 2003. He submitted that



Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 clearly stipulates that no court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorized in this behalf by the Central Government or the State Government and, thus, prosecution of the petitioner by way of instituting an FIR is not maintainable. He submitted that so far as Section 379 of the Indian Penal Code is concerned, the same is not made out, as the sand in question was lifted on valid challan and was not stolen property.

Having regard to submissions made above, in the event of arrest or surrender in the court below within six weeks from today, the petitioner 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 Additional Chief Judicial Magistrate, Hilsa in connection with Islampur P.S. Case No.421 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J)

Md.S./-

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