

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75141 of 2019

Arising Out of PS. Case No.-82 Year-2019 Thana- ISHIPUR District- Bhagalpur

Sunil Kumar Gupta, S/o Late Khushi Lal Gupta, R/O Village-Kirtania, P.S.-
Pirpanti, District-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Santosh Kumar Sinha (Presently posted as Mines Inspector, Bhagalpur)
S/O Anjani Kumar Sinha, R/O Krishnapuri, Jamui, P.S.-Jamui, District-
Jamui

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Awadhesh Kumar, Advocate
For the State	:	Mr.Arun Kumar Singh, APP
For the Mines Department:		Mr. Naresh Dikshit, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 09-12-2019 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the Department of

Mines.

The petitioner is apprehending his arrest in connection with Ishipur Barahat P.S. Case No.82 of 2019 registered for the offence punishable under Sections 379 and 411 of the Indian Penal Code and under Sections 4 and 40 of the Bihar Minor Mineral Concession Rules, 1972, under Rules 4, 6 and 8 of the Bihar Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2003, under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 15 of the Environment Protection Act, 1986.



Learned counsel for the petitioner submits that in pursuance of the licence issued by the Mines Development Officer, Bhagalpur, the petitioner had a storage of stones on Plot bearing Mauza-Kushalpur, Plot No.1144, Khata No.75, Area 0.53 acres within the Bhagalpur district. It is further submitted that the plot number, which has been mentioned in the F.I.R., is the same but the story regarding the petitioner being in possession of the licence has been cleverly ignored in the F.I.R. It is further submitted that the allegations levelled in the F.I.R. gets falsified since the petitioner is a licence-holder and the mere presence of the crusher machine at the place does not amount to any offence unless and until it has been operational in violation of any rule which case has not been made out by the Department of Mines.

Learned counsel for the petitioner submits that so far as the offence under which the case has been instituted under the Bihar Minor Mineral Concession Rules, 1972 and Bihar Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2003 is concerned, the same is neither made out and it is a bailable offence. Learned counsel for the petitioner further submits that if at all the Department of Mines has any grievance, they could have given a notice to the petitioner first,



rather than to resort to the criminal prosecution, which has been done for the reasons best known to themselves.

Considering the aforementioned facts and circumstances and because, admittedly, the stone crusher machine was not found operational, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, 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 the Additional Chief Judicial Magistrate-VIII, Bhagalpur, in connection with Ishipur Barahat P.S. Case No.82 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and also subject to the following conditions:

(1) One of the bailors will be his own relative, namely, mother, brother, sister and/or his wife.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.

(3) The petitioner shall remain physically present in court on each and every date during trial and in the event of his failure on two consecutive dates without



sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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