

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6313 of 2020**

Arising Out of PS. Case No.-78 Year-2019 Thana- SUIYA District- Banka

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BHAWESH KUMAR YADAV Son of Sikandar Yadav Resident of Village-
Olhani, P.S.-Banka, District-Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Bihar Mines Mineral Concession Department Bihar, Patna.
Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Brij Nandan Prasad, Adv.
For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-07-2020 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner, in the present case, is seeking anticipatory
bail in connection with Suiya P.S. Case No.78 of 2019
registered for the offences under Sections 379 and 411 of the
Indian Penal Code and B.M.M.C. Rules 1972 amended 2014
under Sections 40(8)(a), 8(4) of B.M.(P.I.M.T.S.) Rules, 2003
and Section 15 of Environmental Protection Act, 1986.

Learned counsel for the petitioner submits that as per the
prosecution story the police officials came to know in course of
patrolling in the night hours that illegal mining of sand is taking
place and loading is being done on several tractors from the rivers.



On such information, the patrolling party reached to the place where several tractors had been found loaded with sand which had been illegally mined. The Mining Officer-cum-Incharge, Mines Inspector lodged the first information report giving rise to the present case. The first information report contains the chassis number, engine number and registration number of the vehicles which were loaded with sand by doing illegal mining.

Learned counsel for the petitioner submits that some of the co-accused have been granted privilege of anticipatory bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 62320 of 2019 and then following the same in another Cr. Misc. no. 58721 of 2019. It is submitted that the same privilege be allowed to the petitioner.

Learned counsel for the State has, however, submitted that this petitioner is the owner of the tractor and he had sent the tractor owned by him for loading the sand which were being extracted illegally and unauthorizedly. It is further submitted that it is not unknown to the Court that the theft of natural resources of the country is in the nature of an economic crime and it causes loss to the country as a whole. According to him the petitioners in Cr. Misc. No. 62320 of 2019 were drivers of the vehicles and they had taken a plea that they were carrying



the sand of the customers on the instruction of the owner of the tractors. Thus, it is submitted that the reliance placed by the learned counsel for the petitioner on the order of the learned co-ordinate Bench dated 16.10.2019 in Cr. Misc. No. 62320 of 2019 which has been followed by another learned co-ordinate Bench would not help the case of the petitioner in its own facts.

Having regard to the facts and circumstances of the case and by taking note of the submissions of the parties, this Court finds that this petitioner is said to be the owner of the tractor and it has come that the tractor was seized in the river side where the illegal mining was taking place and sand were being loaded on the tractor, the Court is also finding that the learned co-ordinate Bench has granted anticipatory bail to the petitioners of the said case on the submission that they were the drivers of the vehicle and the same has been followed by another learned co-ordinate Bench as it was contended that the petitioners in the said case were also similarly situated to Cr. Misc. No. 62320 of 2019, but in the present case the petitioner is the owner of the tractor and if he had allowed his vehicle to go to the river side and involved in loading of sand which were illegally extracted, in the opinion of this Court, the petitioner does not deserve privilege of anticipatory bail. His prayer is,



thus, refused.

In case the petitioner surrenders and prays for regular bail before the learned court below within a period of four weeks from today, his prayer for regular bail shall be considered on its own merit without being prejudiced by the present order of this Court.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

