

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20753 of 2020

Arising Out of PS. Case No.-14 Year-2020 Thana- DHURAIYA District- Banka

DIWAKAR KUMAR Son of Dip Narayan Mandal Resident of Village -
Bhusar Batsar, P.S.- Dhoraiya and District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madan Mohan

For the Opposite Party/s : Mr.Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-07-2020 The matter has been taken up in the court proceeding
conducted through virtual mode.

Since, the physical court is not functional, due to
present pandemic Covid-19, the present application has been listed
with defects.

Learned counsel for the petitioner undertakes to remove
the defects within three weeks of resumption of functioning of the
court in physical mode.

If the defects are not removed within the said period, the
office will again place the matter on board.

Heard learned counsel for the petitioner, State and Mr.
Naresh Dixit, learned counsel for the department of Mines.

The petitioner is apprehending his arrest in a case
registered for the offences punishable under Sections 379 and 411
of the IPC and Section

The prosecution case, as per the written report of



Mining Development Officer cum-Incharge Mining Inspector, Banka, submitted to the Station House Officer, Dhuraiya Police Station is to the effect that on 17.01.2020, a tractor, loaded with 100 C.F.T. sand was intercepted, but no valid challan for transportation of the sand was produced, as a result, the FIR was lodged and tractor loaded with sand was seized. During investigation, it was found that the petitioner is the owner of the tractor in question.

Learned counsel for the petitioner submits that it is an error of record that the petitioner was the driver-cum-owner of the tractor in question, rather the petitioner is only the owner of the vehicle in question, statement to that effect has been made in paragraph no.7 of the petition. The petitioner does not claim the sand in question. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the Department of Mines submits that due to illegal mining and its transportation, huge loss is caused to the State exchequer. The undertaking on behalf of the petitioner that he will never claim the sand in question may be recorded in the order.

Considering the fact that there is nothing on record to suggest that the petitioner was present on the tractor in question



when it was intercepted and the fact that he does not claim the sand in question, let the petitioner above named be released on anticipatory bail for the present provisionally for a period of three months in the event of arrest or surrender before the learned Court below within a period of four weeks on furnishing one surety to the satisfaction of the learned CJM, Banka, in connection with Dhoraiya P.S. Case No. 14 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned CJM, Banka, in connection with Dhoraiya P.S. Case No. 14 of 2020.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.



Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/Ashwini

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