

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM COURT'S CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23686 of 2020**

Arising Out of PS. Case No.-27 Year-2020 Thana- DHURAIYA District- Banka

Md. Ishmile @ Md. Ismail, Son of Md. Najmuddin, Resident of Village -
Hasay, P.S.- Banka, District – Banka. Petitioner

Versus

1. The State of Bihar
2. The Assistant Director, Mines and Geology Department, Banka, Bihar

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate
For the Opposite Party/s : Mr. Manoj Kumar No. 1, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 09-10-2020 Learned counsel for the petitioner undertakes to remove all the defects pointed by the Stamp Reporter within three weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Manoj Kumar No. 1, learned A.P.P. for the State.

Petitioner in the present case is seeking pre-arrest bail in connection with Dhuraiya P.S. Case No. 27 of 2020 registered for the offences punishable under Sections 379/411 of the Indian Penal Code, Section 56 of Bihar (Concession Prevention of illegal Mining Transportation & Storage) Rule 2019, Section 21 MMDR Act 1957 and Section 15 of Environmental Protection Act.

Learned counsel for the petitioner submits that the petitioner is the owner-cum-driver of the seized tractor in this case which was found loaded with illegally extracted sand and without



any challan.

Learned counsel submits that the petitioner has been falsely implicated and on mere suspicion his name has been brought in this case and that he is ready to deposit the loss amount before the Mining Officer, Banka.

Mr. Manoj Kumar No. 1, learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner. It is submitted that recently this Court has been noticing the kind of national loss which is being caused by all these kinds of illegal extraction of minerals and several vehicle owners are involved in this illegal business and they have got a modus operandi whereunder they are not using registered vehicles rather those vehicles which are not having any registration number and no tax is being paid on that are being used. According to him the present case is one of those kind.

It is submitted that considering that the petitioner is the owner of the tractor and driver, the tractor and trailer were not registered and it is evident that he is involved in the business of illegally extracted sand causing loss to the nation as a whole and these are to be seen as economic offence against the State and custodial interrogation may help the investigating agency in revealing many things.

Having regard to the facts and circumstances of the



case, this Court agrees with the submission of learned A.P.P. for the State. In this case it appears that neither the tractor nor the trailer of the petitioner was not having any registration number and this fact is an admitted one inasmuch as in the petition also the petitioner is not able to provide the registration number of the vehicle. The vehicle has been seized with illegally extracted sand and for that there was no challan. Thus, the Court agrees with the submission of learned A.P.P. for the State that it is like causing loss to the nation as a whole and such offences are to be discouraged, therefore, the deposit of fine only is not likely to help in discouraging such illegal acts as in such cases custodial interrogation may reveal many things. The prayer for anticipatory bail of the petitioner is refused.

In case the petitioner surrenders and prays for regular bail in the court below within a period of four weeks his prayer for regular bail shall be considered on its own merit without being prejudiced by the order of this Court but at the same time it is made clear that this observation would not be construed as granting any interim protection to the petitioner for any period.

(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'.

