

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19396 of 2021**

Arising Out of PS. Case No.-43 Year-2020 Thana- CHANDAN District- Banka

Nand Kishore Yadav S/O Manu Yadav Resident of Village- Karda, P.S-
Katoriya, Distt. Banka.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Pandey

For the Opposite Party/s : Mr. Chandrasen Prasad Singh, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 10-02-2022 Due to the third wave of COVID-19 Pandemic, the
matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders”
under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and the State
through virtual mode.

Learned counsel for the petitioner is directed to remove
the defect(s), as pointed out by the office, within a period of four
weeks after restoration of normalcy.

It has been submitted on behalf of the petitioner that
though in the first paragraph of the petition, “Chandan P.S. Case No.
43 of 2020” has rightly been mentioned but inadvertently, in the
prayer portion of the petition, “Banka P.S. Case No. 10 of 2020” has
been mentioned.

Accordingly, ***“Banka P.S. Case No. 10 of 2020”***



mentioned in the petition be read as ***“Chandan (Anandpur) P.S. Case No. 43 of 2020”***

The petitioner is apprehending his arrest in Chandan (Anandpur) P.S. Case No. 43 of 2020 registered for the offence under Sections 379, 411 of the Indian Penal Code, Section-21 of M.M.D.R. Act and 4/40 of B.M.M.C. Rule 1972.

Allegedly, the tractor of the petitioner loaded with sand was seized by the police.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has been made accused in the present case due to mistake of fact. The petitioner is alleged to be owner-cum-driver of the tractor in question, which is alleged to have been loaded with the sand, obtained by way of illegal mining. The petitioner had no knowledge that the sand on the tractor has been obtained by way of illegal mining. Vide Annexure-2 to this application, fine amount has already been deposited.

On behalf of the State, it is submitted that the petitioner is named in the Complaint Case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further



this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances of the case, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Chandan (Anandpur) P.S. Case No. 43 of 2020 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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