

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35267 of 2022

Arising Out of PS. Case No.-85 Year-2022 Thana- JHAJHA District- Jamui

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Rakesh Vishwakarma Kapildeo Vishwakarma Resident of village-
Neemarang, P.S.- Jamui, District- Jamui

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar Jha, Adv.

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

For the informant/s I.O.C.L : Mr. Uday Bhan Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 18-10-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
Jhajha P.S. Case No. 85 of 2022 lodged under Sections
15(2)/15/(4) of Petroleum and Mineral Pipeline Act, 1962 as
amended in 2011 and 3/4 Explosive Substance Act, 3/4
Prevention of damage to Public Property Act, 1984.

As per the prosecution case, the allegation against the
petitioner is to commit theft of crude oil from the pipeline of
Indian Oil Corporation Limited from Paradeep Haldia Barauni
Pipeline in Barajor village in Ashok Lilen Lorry tank in addition
to that one white Bolero Jeep was there and a plastic pipeline

was attached in the main pipeline by which theft was made by 2 persons present there namely, the petitioner and other co-accused Karan Sharma. When the informant reached there, he has found that the said accused persons have made a ditch and attached a valve with the said pipeline.

Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence. He submits that nothing was found from the conscious position of the petitioner. As such no offence either under Petroleum & Mineral Pipeline Act or under Explosive Substance Act or under Prevention of damage to Public Property Act, 1984 is being made. Learned counsel for the petitioner submits that antecedent of the petitioner is clean and he is in custody since 12.03.2022, charge sheet has already been filed in this case against the petitioner.

Learned counsel for the State opposes the prayer for bail and submits that the present offence is a Sessions Triable offence and commitment has already been made in this case.

Learned counsel for I.O.C.L. submits that the allegation against the accused is of grave nature. The punishment under Section 15(2) and 15(4) of the Petroleum and Mineral Pipeline Act, 1962 as amended in 2011 is 10 years or life imprisonment. The punishment under Section 3/4 of the Explosive Substance Act, 1884 is 10 years and liable to fine.

The offences under Section 3/4 Prevention of damage to Public Property Act, 1984 is punishable upto 1 year and compoundable also. Learned counsel for the I.O.C.L. also submits that it is a special law which talks about the presumption regarding the property and also creates burden of prove in certain cases. He submits that it is not a normal case in which burden is upon the prosecution to prove rather it is a case in which burden of proving that the recovered material that is crude oil is not the stolen property is upon the accused persons that is petitioner in the present case. There is no document present on the record by which it is clear that the alleged crude oil is the property of the petitioner. Such type of crime is not the crime against the individual rather it is a crime against the public at large and also creates loss to the nation.

In the present facts and circumstances of this case and the submissions made above, I am not inclined to grant bail to the petitioner. Therefore, the bail petition of the petitioner is hereby rejected.

With this observation, the bail application stands rejected.

(Dr. Anshuman, J.)

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