

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8423 of 2023

Arising Out of PS. Case No.-481 Year-2021 Thana- DAUDNAGAR District- Aurangabad

Sadashiv Prasad Singh @ Sadashiv Prasad @ Sadashiv Singh, Son of
Maleshwar Singh R/o 410, Ganeshalay Apartment, Jharudih, Near Carmel
School, Matkuria, P.S.- Dhanbad, District- Dhanbad, Jharkhand 826001

... .. Petitioner

Versus

1. The State of Bihar
2. The Mineral Development Officer, Aurangabad Bihar

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Senior Advocate Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Mr. Vijay Shanker Tiwari, Advocate Mr. Rohit Singh, Advocate
For the State	:	Mr. Shyameshwar Dayal, APP
For the Mines	:	Mr. Naresh Dixit, Spl. PP Ms. Kalpana, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 3 18-05-2023 Heard Mr. P.N. Shahi, learned Senior Counsel assisted
by Mr. Suraj Samdarshi, learned Advocate for the petitioner and
Mr. Naresh Dixit, learned Spl. PP for the Department of Mines,
Government of Bihar.

Pursuant to the direction of this Court vide its order dated 17.05.2023, the District Mining Officer, Aurangabad is present, however, he being a new incumbent of the post was unable to render much assistance, hence, this Court called for the appearance of the Director, Mines. Mr. Md. Naiyar Iqbal, the Director, Department of Mines has, thus, appeared and explained the matter.



Petitioner in the present case is the Chief Executive Officer of M/S Aditya Multicom Private Limited (hereinafter referred to as “the Company”). He is seeking pre-arrest bail in connection with Daudnagar P.S. Case No. 481 of 2021 registered for the offences punishable under Sections 379, 411 and 420 of the Indian Penal Code and Rule 11, 39 and 56 of the Bihar Miner (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as “the Rules of 2019”). He has given the list of cases in paragraph ‘3’ which are all of similar nature and from which, it appears that in recent times, about 28 cases have been lodged against the Company and its officials wherein the allegations are of similar nature.

As per the prosecution story, the Mines Development Officer, Aurangabad alleges that in course of physical verification of the stock of the K- License No. 05, 04/2021 and 19/2020, the total stock of 2,05,350 CFT were found whereas the Project Monitoring Unit (in short “PMU”) made available a report that at the stock point, the total quantity of sand stored was 7,08,830 CFT. He alleges that the license holder and its staffs/operators have transported 05,03,480 CFT of sand without issuing pre-paid e-challan. It is alleged that the license holder



has not followed the provisions of Clause (1), (12), (13), and (15) of the License and Rule 11 and 39 of the Rules of 2019 which is punishable under Rule 56 of the Rules. The informant alleges that the license holder company had proceeded under Sections 379, 411, 420 of the Indian Penal Code and other suitable Sections.

Learned Senior Counsel for the petitioner submits that it is an admitted fact that the Company is the settlee of the sand ghat. Lastly, the settlement was extended for the period 01.04.2021 to 30.09.2021. He paid the first installment of the settlement amount but thereafter for various reasons, the Company decided to surrender the settlement in terms of the contract. The Company surrendered the settlement with effect from 01.05.2021.

It is stated that after the Company surrendered the lease, the District Magistrate, Aurangabad wrote to the Director, Mines and Geological Department, Government of Bihar to suspend the stock license of the petitioner with immediate effect and to conduct a verification of the stock at the different stock points in the district. In this connection, letter containing Memo No. 635 dated 01.05.2021 (Annexure '4') was issued by the District Magistrate, Aurangabad.



Learned Senior Counsel further submits that in the light of the said order, the Sub-Divisional Magistrate, Daudnagar conducted an inspection and according to his report at K-point 4/2021 and 5/2021, approximately 1,05,750 and 15,300 metric ton of sand were found.

Learned Senior Counsel has explained that if it is converted in CFT, it will come to 30,26,000/- CFT. The contention is that on the date of inspection i.e. 11.05.2021, 30,26,000/- CFT of sand were present at those places.

Learned Senior Counsel further submits that after the Settlee Company surrendered the stocks, the possession of the same was taken and arrangements were made by the Department to sale the stocks through their own platforms. In this connection, the notice published in newspaper Dainik Bhaskar by the Department as contained in Annexure '9' to the application dated 10th July, 2021 has been placed.

A bunch of papers have been placed today from which learned counsel for the petitioner has submitted that it is the own letter of the Mines Development Officer, Aurangabad addressed to the Officer-in-Charge of different police stations as contained in Memo No. 1555 dated 25.11.2021 which refers the letter of the District Magistrate dated 11.07.2021 and



17.08.2021. By this letter, the Mining Development Officer has reminded the Officer-in-Charge of the police station that they had to take care of the safety of the stocks lying at the stock points of the earlier settlee. By way of reminder, the Officer-in-Charge were directed to provide security so that no loss is caused to the Government Exchequer.

Learned Senior Counsel for the petitioner has also produced a copy of the e-challan which is generated at the mining point. It contains the e-cap of ghat. The e-challan issued by the settlee of this case has been enclosed as Annexure '13' to show that these e-challans are issued containing the weight of the sand, quantity in CFT and the value for which it is sold. These sand are sold from the stock point, however, they are the same and one in respect of which the e-challan is generated at the mining point.

In any case, it is the submission of the learned Senior Counsel that after surrender of the stock, it was in the possession of the Officer-in-Charge of the concerned police station, therefore, these are the relevant facts which have not been disclosed in the FIR lodged on 26.08.2021.

Mr. Naresh Dixit, learned Spl. PP for the Department of Mines and the Director, Department of Mines both do not



dispute the contention of the learned counsel for the petitioner that the settlement was surrendered on 01.05.2021. They do not dispute that after it was surrendered, an inspection was carried by the S.D.M., Daudnagar on 11.05.2021 in which 30,26,000/- CFT sand were found at the stock point. They further do not dispute that after the stocks were surrendered, steps were taken to sell those stocks through the Bihar State Mining Corporation and further after surrender the Officer-in-Charge of the concerned police station had been asked to provide security at the stock point and it was the responsibility of the Officer-in-Charge to ensure that no theft takes place.

In course of hearing all these matters, while answering the queries of this Court, learned counsel for the Department of Mines as well as the Director of the Department have equivocally stated that there may be a situation in which even the persons who were given the responsibility to keep the stocks secured may have been involved.

Having regard to the facts and circumstances of the case, the submissions noted hereinabove and the statements of the learned counsel for the Department and the Director of Mines as recorded hereinabove when this Court finds that in large number of cases which are stated in paragraph '3' of the



application, the petitioner has been granted privilege of anticipatory bail by learned co-ordinate Bench of this Court and some of them which have been placed before this Court are in Cr. Misc. No. 68755 of 2022, Cr. Misc. No. 69656 of 2022, Cr. Misc. No. 69250 of 2022, Cr. Misc. No. 69140 of 2022, Cr. Misc. No. 69402 of 2022, Cr. Misc. No. 23928 of 2022, Cr. Misc. No. 74522 of 2022 and Cr. Misc. No. 7407 of 2023, to maintain a uniformity in justice, this Court directs that in case of his arrest or surrender within a period of four weeks from today, the petitioner shall be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) in connection with Daudnagar P.S. Case No. 481 of 2021 with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Aurangabad, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

And further condition that the court below shall verify the criminal antecedents of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.



Before this Court parts with this order, it is expedient in the interest of justice to record that after today’s discussion in connection with this case, in course of hearing, the Director of Mines having realized that the role of those who were given the responsibility of securing the stocks is also required to be looked into, undertakes to take up this issue at appropriate level for appropriate action.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

lekhi/-

U		T	
---	--	---	--

