

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19902 of 2023

Arising Out of PS. Case No.-248 Year-2022 Thana- SHAMBHUGANJ District- Banka

Kundan Kumar. Son of Ram Savak Singh. R/o Village - Baijalpur, Amaiya
Ward No.- 7, P.S.- Asarganj, District - Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Harun Quareshi, Advocate

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-06-2023 Heard Mr. Md. Harun Quareshi, learned counsel
appearing on behalf of the petitioner and the learned APP for the
State.

The petitioner apprehends his arrest in connection
with Shambhuganj P.S. Case No. 248 of 2022 registered for the
offence punishable under Sections 379 and 411 of the Indian
Penal Code and Mines and Mineral Development & Regulation
Act, 1957 & (4)1 21 Bihar Minerals Concession Prevention of
Illegal Mining and Transportation and Storage Rule 2019, 11/41
Amendment Act, 2021.

In course of vehicle checking, the informant along
with other police personnels intercepted the tractor, laden with
sand, however, on noticing the police persons the driver and the
owner of the tractor succeeded in fleeing away. The petitioner is
said to be owner of the tractor.



Learned counsel appearing on behalf of the petitioner submits that the petitioner happens to be an employee of the Bank and so far the tractor is concerned, that has been given to one 'Amrendra Kumar' on contract for transportation of goods and he was not even knowing that the same was being used for the purposes of loading sand without proper *chalan*. He next submitted that the even as per the FIR, all the offences are bailable and so far Sections 379 and 411 of the Indian Penal Code are concerned, that are not applicable in the present case. He next submitted that the petitioner has nothing to do with the illegal sand, which is said to be recovered from his tractor, apart from the fact that he is having fair antecedent.

On the other hand, learned APP for the State vehemently opposes the pre-arrest bail application of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the fact that other offence are bailable except under Sections 379 and 411 of the Indian Penal Code, which is not prima facie made out in the present case, coupled with the fair antecedent of the petitioner, let the above named petitioner, be released on bail, in the event of his arrest of surrender before the learned Court



below within a period of four weeks from today, on furnishing
bail bonds of Rs. 10,000/- (Rupees ten thousand) with two
sureties of the like amount each to the satisfaction of learned
Chief Judicial Magistrate, Banka in connection with
Shambhuganj P.S. Case No. 248 of 2022, subject to the
condition as laid down under Section 438 (2) of the Cr.P.C.

(Harish Kumar, J)

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