

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38562 of 2023

Arising Out of PS. Case No.-782 Year-2020 Thana- BANKA District- Banka

Bipin Mahto Son Of Snehi Mahto Village Sneha, P.S. Sahebpur Kamal, Dist,
Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Mines, Government of Bihar, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 28-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

02. Let the defect(s), if any, as pointed out by the
office, be removed within a period of four weeks from today.

03. In the present case, the petitioner is apprehending
his arrest in connection with Banka P.S. Case No.782 of 2020,
registered on 28.09.2020, for the alleged offence under Sections
379 and 411 of the Indian Penal Code, Sections 11 and 41 of the
Bihar Minerals (Concession, Prevention of Illegal Mining
Transportation and Storage) Rules, 2019, Section 4(1A) of
Mines and Minerals Development and Regulation Act, 1957 and
Section 15 of the NGT Act, 2010.

04. As per prosecution case, a truck loaded with 800



cubic feet illegally mined sand was intercepted by the informant and the driver and the owner of the truck were made accused in this case. The petitioner is said to be the driver of the said truck.

05. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner, being the driver of the said vehicle, has no knowledge about sand being illegal and since the vehicle was for commercial one, the petitioner used to work as a driver on daily wages. Learned counsel further submits that in the facts and circumstances of the case, no offence under Sections 379 and 411 of the Indian Penal Code is made out against the petitioner. The owner of the vehicle has been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 14.07.2023 passed in Criminal Misc. No. 23415 of 2023 subject to his paying the compounding fee of the sand in question. Learned counsel further submits that the owner has paid the compounding fee for illegal mining of sand in question to the concerned department.

06. Learned A.P.P. for the State opposes the prayer for bail submitting that on the truck being driven by the petitioner sand was illegally loaded in contravention to the provisions of Mines and Minerals Development and Regulation Act.



07. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that the petitioner is said to be the driver of the vehicle in question and owner of the said vehicle has paid the compounding fee for illegal mining of sand in question, let the petitioner, above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka/concerned court in connection with Banka P.S. Case No. 782 of 2020 subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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