

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40026 of 2022

Arising Out of PS. Case No.-399 Year-2021 Thana- JAGDISHPUR District- Bhagalpur

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Mahadeo Yadav @ Maideo Yadav S/O Late Pheku Yadav Resident of village-
Mohdipur, Near Shiv Mandir, P.S.- Jagdishpur, District- Bhagalpur.
... .. Petitioner/s

Versus

The Secretary, Department of Bihar Mines and Minerals, Patna BIHAR
... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar @Deepak Sahay, Advocate
For the Opposite Party/s : Mr. Naresh Dikshit, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 05-10-2023 Heard Mr. Sanjeev Kumar, learned counsel for the

petitioner and Mr. Naresh Dikshit, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Jagdishpur P.S. Case No. 399 of 2021, F.I.R. dated 06.12.2021 for the offences punishable under Sections 379, 411 of the Indian Penal Code and Section 39(I)56 of BMMC Rule, 2019.

3. According to prosecution case, the petitioner along with other accused persons have illegally stored the sand, as a result of which the government incurred a huge loss of Rs. 4,43,350/.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the



petitioner has not committed any offences as alleged in the F.I.R. He further submits that there is only allegation that the sand in question was recovered from the land of the petitioner. He further submits that in fact, the sand in question was recovered from the tractor in question and the petitioner is neither the owner nor the driver of the said tractor. He further submits that similarly situated co-accused persons, namely, Shadeo Yadav, Subodh Yadav and Prafulla Yadav have been granted anticipatory bail vide order dated 24.11.2022 passed in Cr. Misc. No. 33512 of 2022.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the sand in question was recovered from the land of the petitioner and he is responsible for the present occurrence but fairly submits that the similarly situated accused persons have been granted anticipatory bail by different co-ordinate Bench of this Hon'ble Court.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned



Chief Judicial Magistrate, Bhagalpur in connection with Jagdishpur P.S. Case No. 399 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent 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.

(Rajesh Kumar Verma, J)

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