

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43571 of 2023

Arising Out of PS. Case No.-483 Year-2022 Thana- KHIJARSARAI District- Gaya

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Anil Sharma, Son of Late Amrit Sharma, Resident of Village - Bana, P.S.-
Khijarsarai, District - Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No2, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner in the present case is seeking pre-arrest bail in connection with Khijarsarai P.S. Case No. 483 of 2022 registered for the offences punishable under Sections 379, 411 of the Indian Penal Code and Section 21 of the M.M. (D.R.) Act and Rule 21 and 56 of B.M.C.P.I.M.T.S. Amendment Rules. He has got no criminal antecedent.

3. As per the prosecution story, on 21.12.2022 at about 02:30 P.M. a raid was conducted at village Bana where there was information of storage of sand by one Anil Sharma of about 11,048 sq. ft. On 22.12.2022, a notice was given to produce the concerned documents but till 25.12.2022 no document could be produced, thereafter, it transpired that sand has been stored illegally due to which total Rs.12,01,612/- loss



had to be incurred by the Government.

4. Learned counsel for the petitioner submits that the petitioner is doing business in partnership with one Jai Kumar Sharma and according to him, the entire stock of sand was purchased by said Jai Kumar Sharma which was stored on the land of the petitioner. It is submitted that Annexure '2' is the partnership deed. The said Jai Kumar Sharma is a first class government contractor.

5. On the other hand, learned APP for the State submits that from Annexure '2' which is said to be a deed of partnership, it would appear that it is a half-hearted document and it does not contain the necessary recital as to the capital etc brought by the petitioner in the said business.

6. It is submitted that from the FIR, it would appear that when the Mining Inspector raided the place in question, he found that huge quantity of about 11,048 cft sand were stored there. The petitioner did not have any license as stockist and his plea that it was purchased by his partner Jai Kumar Sharma is only an after thought because normally the sand are only purchased by a contractor for purpose of business and the same is transported from the sand ghat to the work place. It is, thus, a case of indulging in illegal mining and storage.



7. Having regard to the facts and circumstances of the case, this Court is of the view that in the matter of illegal mining or unlawful storage of minor mineral which is a public property and the nature of act is such that it is a kind of theft of national property causing loss to the public at large, this Court is not inclined to grant privilege of anticipatory bail to the petitioner.

8. Prayer is refused.

9. In case, the petitioner surrenders and prays for regular bail within a period of four weeks from today, the same will be considered on its own merit without being prejudiced by the order of this court.

10. This application stands dismissed.

(Rajeev Ranjan Prasad, J)

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