

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41381 of 2023

Arising Out of PS. Case No.-70 Year-2023 Thana- JOGBANI District- Araria

RAJBALLABH KUMAR @ RAJBALLAV KUMAR son of Bhola Prasad
Village- Jamalchak Ps- Atri Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar

For the Opposite Party/s : Mr.Shyameshwar Dayal

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 02-08-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Jogbani P.S. Case No. 70 of 2023 registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code, Section 27 M.M.D.R. Act, 1957 and Rule-56(1), and 56(2) Bihar Minerals (Concession, Prevention of Illegal Mining Transportation and Storage) Rules, 2019 (Amendment Rules, 2021).

3. As per prosecution case, informant got secret information that in village Dakshin Maheshwari, from Parman river illegal mining of sand was going on and sand was loaded by the JCB in the tractor. It is further alleged that when the informant alongwith other police personnel reached there then



after seeing the police party drivers of tractor and JCB fled away taking advantage of dense forest on the other side of the river.

4. Learned counsel for the petitioner submits that petitioner is not named in F.I.R. During course of investigation name of present petitioner has been transpired as the driver or owner of the JCB as mentioned in impugned order. Learned counsel in para 7 of his bail petition stated that the petitioner was the driver of JCB in question which belongs to M/S Yes Countrywide Construction OPC pvt ltd. and the said company was working on contract under IRCON International and the Company took the land on lease for uplifting the soil from the land owners namely Pramod Kumar Mandal and others and the photocopy of said lease agreement is annexed as annexure no. 2 of the bail petition. Learned counsel further submits that the JCB in question was not directly or indirectly involved in mining and transportation of sand rather the JCB in question was involved in mining and transportation of soil for construction work which was going on under IRCON International for which the contractor obtained the proper order from the District Mining Authority, Araria and permission order of the concerned authority is annexed as annexure 3 of the bail



petition. He further submits that petitioner bears no criminal antecedent.

5. The learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioner, argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate – V, Araria in connection with Jogbani P.S. Case No. 70 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Alok Kumar Pandey, J)

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