

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58638 of 2023

Arising Out of PS. Case No.-235 Year-2022 Thana- BARAHAT District- Banka

Bam Bam Yadav, (Male), aged about 21 years son of Satan Yadav @ Sattan Yadav, resident of village- Radhanagar, Police Station- Barahat, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mines Inspector Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Praveen Kumar, Advocate
For the Opposite Party/s :	Mr. Shyameshwar Dayal, A.P.P.
	Mr. Brij Bihari Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 06-12-2023 Heard Mr. Praveen Kumar, learned counsel appearing on behalf of the petitioner; Mr. Brij Bihari Tiwary, learned counsel appearing on behalf of the Mines Department and Mr. Shyameshwar Dayal, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Barahat P.S. Case No. 235 of 2022 registered for the offence punishable under Sections 379, 411 of the Indian Penal Code, Sections 11, 41, 56, (2) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules as amended up-to-date and Sections 4(1) and 21 of the Mines and Mineral (Development and Regulation) Act, 1957.



3. As per the allegation made in the FIR, the trailer loaded with sand near Mohanpur village was seized by the Inspector, Mines and Mineral.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is ready to deposit the amount of fine in terms of Section 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019, even though he has not committed any offence as alleged in the FIR. He further submitted that he will produce the receipt within a reasonable period of time before the learned District Court. Petitioner has clean antecedent.

5. Learned counsel appearing on behalf of the Mines Department submitted that it is admitted that the trailer of the petitioner was found loaded with sand and the petitioner has not been able to show the permit in this regard. Petitioner does not deserve to be released on pre-arrest bail.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

7. Having considered the rival submissions made on behalf of the parties, as well as, the allegation made in the FIR, the trailer loaded with sand belonging to the petitioner was seized at the place of occurrence, which allegedly was found in



illegal mining of sand without permit or license. Submission has been made on behalf of the petitioner that petitioner is ready to deposit the amount of fine in terms of Section 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 and he will also furnish the receipt to that effect before the learned District Court. Petitioner has remedy under the Mines and Mineral (Development and Regulation) Act for release of the traylor and deposit of fine. It would be proper that the petitioner furnish affidavit along with two respectable persons of the area that he will not indulge in illegal mining or in any criminal activity in future.

8. If such affidavit is filed before the learned District Court, the petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka, in connection with Barahat P.S. Case No. 235 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. The Court below is directed to verify the



**criminal antecedent of the petitioner as stated in paragraph
no. 3 of the bail application. If any other case is pending
against the petitioner as what has been stated in paragraph
no. 3, this order will lose its force automatically.**

(Purnendu Singh, J)

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