

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63095 of 2022

Arising Out of PS. Case No.-96 Year-2022 Thana- MALAYPUR District- Jamui

NIKESH KUMAR Son of Harinandan Sharma Resident of Village - Abbu
Lodipur, P.O.- Shorampur, P.S.- Janipur, District - Patna, Bihar - 801505.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr. Anil Kumar, Mining Inspector, Jamui, resident of village- Jamuara, P.S.
Tekari, Distt.Gaya Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Satyendra Rai, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP
For the Mines Department:		Mr. Naresh Dikshit, Advocate
		Mr. Utsav Anand, Advocate

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 24-04-2023 Heard learned counsel for the parties.

2. The petitioner is apprehending arrest in connection with Malaypur P.S. Case No. 96 of 2022 dated 04.08.2022, registered for the offences punishable under Sections 379, 411 and 420 of the Indian Penal Code and Section 21 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

3. Learned counsel for the petitioner submits that the petitioner has a license for sand mining. A tractor was seized carrying sand and it is alleged that there was no registration number of said tractor though the engine number and chassis



number were present. The challan was handed over by the driver which mentions the name of the petitioner.

3.1 Learned counsel further submits that the challan mentions the chassis number and the engine number which is identical and, therefore, there was no occasion for seizing the tractor merely because at that particular time, the registration number was not displayed on the tractor.

4. Learned Special P. P. appearing for the Mines Department opposes the prayer for anticipatory bail and submits that the challan was with regard to another tractor and the same was being used to load sand illegally.

5. I have considered the submissions. Taking into consideration the aforesaid facts and that the petitioner being the license holder was not present, I am inclined to grant pre-arrest bail to the above named petitioner in the event of arrest, subject to the conditions as laid down under Section 438(2) of the Cr. P.C. , which are as under:-

I. The petitioner shall cooperate with the investigation and make himself available for interrogation whenever required;

II. The petitioner shall not directly or indirectly make any inducement, threat or promise to any witness



acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

III. The petitioner shall not obstruct or hamper the police investigation and not play mischief with the evidence collected or yet to be collected by the police;

IV. The petitioner shall maintain law and order;

V. The petitioner shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

VI. The petitioner shall surrender his passport, if any, before the investigating officer within a week and, if he does not possess any passport, he shall file an affidavit to that effect before the investigating officer; and

VII. The petitioner shall regularly remain present during the trial and cooperate the Court to complete the trial for the above offences.

(Sanjeev Prakash Sharma, J)

Ashwini/-
Item No.64

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