

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11942 of 2024

Arising Out of PS. Case No.-66 Year-2023 Thana- FOREST (GOVERNMENT OFFICIAL)
District- Gaya

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Krishna Mohan Mistri Son of Late Ramdeo Mistri Resident of Village-
Dadreja, P.S.- Konch, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shivendra Prasad, Advocate
For the Opposite Party/s : Mr.Rajiv Nayan, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 22-02-2024 Heard Mr. Shivendra Prasad, learned counsel

appearing on behalf of the petitioner and Mr. Rajiv Nayan,

learned APP for the State.

2. Petitioner seeks pre-arrest bail in connection with

Forest Case No.66 of 2023 arising out of Crime Report No.0706

dated 21.06.2023, registered for the offences punishable under

Sections 5, 10, 13 and 14 of the Bihar Saw Mill (Regulation)

Act, 1990 and Section 41 and 42 of the Indian Forest (Bihar

Amendment) Act, 1989.

3. As per the prosecution case, in course of inspection

of the Saw Mill, it was found that the petitioner is running a

Furniture Shop where one piece of Saw Blade and wooden

planks of different sizes were found and in want of any valid



permit with respect to the same, the same were seized and the FIR was lodged.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is innocent. He further submitted that the saw blades are used for making furniture from already sawn wooden planks. It is admitted that the petitioner is running a Saw Mill. The shop of the petitioner is having valid registration number and possesses 'No Objection Certificate' from the different Departments for running the furniture shop.

5. Learned counsel appearing on behalf of the State submitted that the petitioner has violated the provisions of Section 5, 10, 13 and 14 of the Bihar Saw Mill (Regulation) Act, 1990 (hereinafter to be referred as the 'Act, 1990') and Section 41 and 42 of the Indian Forest (Bihar Amendment) Act, 1989 (hereinafter to be referred as the 'Act 1989') and accordingly a crime report was prepared. However, he admits that the seizure list is devoid of any evidence with respect to the documents produced by the petitioner in respect of the wooden planks and the Saw Blade found in the premises of the Furniture Shop. The licence of the shop and documents with respect to the seized articles have been claimed in the FIR to be regulated in



accordance with the provision of Bihar Saw Mill (Regulation) Act, 1990 (hereinafter to be referred as the 'Act, 1990').

6. He further submitted that the provision under Section 5 of the Act, 1990 - "if a person applies for Saw Mill Licence and the same is not granted to him within a period of 30 days, the person, who has applied, is deemed to be licensee under the Act to run the Furniture Shop" is one thing and possessing Saw Blade and other articles like wooden plank without valid licence is certainly a crime. As per the provision of Indian Forest Act, 1927 and Bihar Saw Mill (Regulation) Act, 1990. On these grounds, the learned APP has vehemently opposed and submitted that the petitioner does not deserve to be released on pre-arrest bail also considering the fact that his action has equally contributed in depletion of environment, as there is every possibility of the petitioner being engaged in illegal felling of tree by stealing it from the government land.

7. I have perused the prosecution report, as well as, the seizure list. From the seizure list, it appears that the same has not been prepared in the presence of the petitioner, though it has been alleged that the shop belongs to the petitioner and the articles, which have been seized, are Saw Blade and saw particles weighing 10 kg. and there are four planks of wood of



different sizes, *prima facie*, it appears that the same can only come into existence after sawing the wood.

8. The definition of 'Saw Mill' as contained in **Section 2 (G) of the Bihar Saw Mills (Regulation) Rules, 1993** means '*the plant machinery with which and the premises including the precincts there of in which or in any part in which sawing is carried with the aid of electrical mechanical power*'. **Sub Section (k) of the Bihar Saw Mills (Regulation) Act, 1990** defines "*Wood*" *includes trees when they have fallen or have been felled, and all wood of any species whether cut, converted, fashioned, sawn or hollowed out for any purpose or not.*'

9. Evidently, in the present case, though the saw dust has been found as per the seizure list weighing 10 kg. and the Saw Blade has also been recovered during the course of the seizure, however, the same can not mean that the petitioner was engaged in the sawing process, as would appear from the meaning of 'Saw Mill' as referred hereinabove, which can only run with the aid of electrical or mechanical power. As per the dictionary meaning the power applied by a human being can be considered as mechanical power. The prosecution lacks such allegation.



10. Under the above mentioned facts and circumstances, the petitioner is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the learned court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Gaya in connection with Forest Case No.66 of 2023 arising out of Crime Report No.0706 dated 21.06.2023, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

11. The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in paragraph No.3 of the bail application, this order will automatically lose its force.

(Purnendu Singh, J)

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