

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29590 of 2024

Arising Out of PS. Case No.-559 Year-2023 Thana- BELAGANJ District- Gaya

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Upendra Yadav Son of Lalan Yadav Resident Of Village- Dalelchak, P.S-
Belaganj, District- Gaya (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Singh, Advocate

For the Opposite Party/s : Mr. Nirmala Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 15-05-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

02. In the present case, the petitioner is apprehending his arrest in connection with Belaganj P.S. Case No. 559 of 2023, registered for the alleged offence under Sections 379, 411 of the Indian Penal Code, Section 21 of MM (D & R) Act, 1957 and Rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021.

03. As per prosecution case, the petitioner and other co-accused persons were found committing theft of sand by illegally mining it from the banks of river Falgu. In this manner, they excavated 15000 Sq. feet and 22,000 Sq. feet of sand and stored it at certain identified place and thus, caused revenue loss of Rs. 39,40,500/- to the Bihar Government.

04. Learned counsel for the petitioner submits that the



petitioner is innocent and has been falsely implicated in this case merely on saying of the village chowkidar and except for the statement of chowkidar, no material has come up against this petitioner during investigation. There is no eye witness and the petitioner has no concern with the places from where the illegally mined sand was recovered. A number of persons have been made accused in this case along with the petitioner with vague allegation. Learned counsel further submits that under the provisions of Rule 61 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021, an official written complaint needs to be filed and investigation on the basis of FIR is beyond jurisdiction. Learned counsel further submits that sand mining has been auctioned at different places and the Government gets royalty from it and there is no occasion for causing revenue loss to the Government. Learned counsel further submits that the petitioner has been made accused in this case as he was having criminal antecedent of two cases but he is on bail in that case.

05. Learned A.P.P. for the State opposes the prayer for anticipatory bail. Learned APP submits that the name of the petitioner transpired during investigation and by the act of the petitioner and co-accused, huge loss of revenue was caused to



the Government.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the completely vague nature of allegation without any substantive material and further considering the possibility of false accusation, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya/concerned court in connection with Belaganj P.S. Case No. 559 of 2023, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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