

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34422 of 2024

Arising Out of PS. Case No.-230 Year-2023 Thana- BARAHAT District- Banka

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1. Banti Yadav @ Vikash Kr. Yadav Son of Pratap Narayan Yadav VILLAGE-CHOSHUPUR, POLICE STATION- BARAHAT, DISTRICT-BANKA
 2. SITARAM YADAV SON OF JHINGAL YADAV RESIDENT OF VILLAGE- KHARHARA, POLICE STATION- BARAHAT, DISTRICT-BANKA

... .. Petitioner/s

Versus

1. The State of Bihar
2. THE ASSISTANT DIRECTOR, MINES AND GEOLOGY DEPARTMENT, BANKA BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ajay Mukherjee, Advocate
For the Opposite Party/s	:	Mr.Md. Anzarul Haque Sahara, APP
For Mines	:	Mr. Naresh Dikshit, Advocate
		Mr. Brij Bihari Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 31-07-2024 It has been informed by Mr. Ajay Mukherjee, learned counsel for the petitioners that during the pendency of the petition, the petitioner no.2 has been arrested.

2. In that background, the anticipatory petition against the petitioner no.2 is rejected as infructuous.

3. Heard the parties.

4. The petitioner no.1 is apprehending arrest in connection with Barahat P.S. Case No. 230 of 2023 instituted under Sections 332, 333, 353, 386, 379/411, section 4(1)/21 MMRD Act, 1957, section 11/41 of Bihar Mineral (Concession,



Prevention of Illegal Mining Transportation, Storage) Rule, 2019 and section 56(2) of Mining Amendment Rule, 2021 lodged on 11.10.2023 by the informant, Hariom Ojha.

5. As per the prosecution story, the Mines Inspector alleged that while conducting raid, having found illegal sand mining/transportation, Mahindra & Swaraj Tractor were seized. As it was taken to the police station, the accused persons including this petitioner forcibly tried to free these tractors from the custody of the Police Officer. Accordingly, the FIR.

6. Learned counsel for the petitioner no.1 submits that they have no role to play in the matter. The Tractor owner deposited the amount and the Tractor has now been freed and/are also out of anticipatory bail. Further submission is that he do not have criminal antecedent. The last submission is that irrespective of the outcome of the present case and/or accepting the allegation, the petitioner intends to contribute Rs. 2000/- to the Chief Minister's Relief Fund through Demand Draft issued by the local branch of the State Bank of India.

7. Learned APP opposes the prayer submitting that they tried to stoll the movement of the Tractors towards the police station.

8. Taking into account the submissions put forward



by the parties as also that the Tractor's owner has been granted relief after making payment, this petitioner do not have criminal antecedent, this Court is inclined to extend him the privilege of anticipatory bail subject to payment of Rs. 2000/- to the Chief Minister's Relief Fund through Demand Draft issued by the local branch of the State Bank of India.

9. Let the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav be released on bail, in the event of his arrest or surrender before the subordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each in connection with Barahat P.S. Case No. 230 of 2023 to the satisfaction of learned Additional Chief Judicial Magistrate-1, Banka/Successor Court, Banka subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the other conditions.

(i) one of the bailor should be the family member/relative of the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav who shall provide official document to show his/her bona fide;

(ii) the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav shall appear on each and every date before the Trial



Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iii) the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav shall co-operate in the investigation and make himself available to the police as and when required;

(iv) the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner no.1, Banti Yadav @ Vikash Kr. Yadav shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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