

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65674 of 2023

Arising Out of PS. Case No.-118 Year-2023 Thana- BELA District- Sitamarhi

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BIRENDRA PRASAD YADAV @ BIRENDRA YADAV S/O LATE RAJ KISHORE @ RAJ KISHORE YADAV VILLAGE VISHNUPUR TOLE BAGDAR, PS- BELA DIST- SITAMARHI

... .. Petitioner/s

Versus

1. The State of Bihar
2. SAURAV ABHISHEK S/O SATISH KUMAR VILLAGE MAGULPURA, PATNA CITY, DIST- PATNA CURRENTLY POSTED AS MINES INSPECTOR, SITAMARHI

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Jha, Advocate
For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 27-02-2024 Heard Mr. Amit Kumar Jha, learned counsel for the petitioner, Mr. Jitendre Kumar Singh, learned APP for the State as also Mr. Brij Bihari Tiwari, learned AC to Spl.P.P., Mines.

2. The petitioner is apprehending his arrest in connection with Bela P.S. Case No. 118 of 2023 for the offence under Sections 379 and 411 of the I.P.C. and Rule 11 and Rule 38 (1)(2)(3)(4) of the Bihar Minerals (Concession, Prevention of illegal Mining, Transportation & Storage) Rules 2019, lodged on 05.05.2023, by the informant, Saurabh Abhishek.

3. As per the prosecution story, the informant has alleged that the accused were running brick kiln business without paying the composite royalty and/or without getting no



objection certificate, thus violating Rule 38 of the Bihar Minerals (Concession, Prevention of illegal Mining, Transportation & Storage) Rules, 2019 and accordingly the amount has been calculated to be Rs. 6,33,750. Accordingly, the FIR.

4. Learned counsel for the petitioner has denied the allegation and further submits that to his knowledge a certificate proceeding has been initiated being Certificate Case No. 35 of 2022-23. It is his further submission that without accepting the allegation and/or the outcome of the present case, he is ready to pay half of the amount i.e. Rs. 3,16,500/- by way of demand draft issued by the State Bank of India, in the name of the Mineral Development Officer, Sitamarhi which will be submitted before the concerned Court at the time of surrender, to be handed over to the concerned Official after checking his credential.

5. Learned AC to Spl.P.P., Mines opposed the prayer stating that without NOC and/or paying royalty, brick kiln business was going on. However, for the present he acknowledges that if the petitioner is ready to pay to the State exchequer, even if it is half of the amount, this case can be considered.



6. Taking into account the submission put forward by the parties as also the fact that a certificate proceeding No. 35 of 2022-23 is pending before the Court, the FIR lodged ultimately he will be facing the trial and he do not have any criminal antecedent, this Court is inclined to extend him the privilege of anticipatory bail, subject to payment of Rs. Rs. 3,16,500/- to the Mineral Development Officer, Sitamarhi, as undertaken by the learned counsel for the petitioner.

7. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned SDJM, Sadar, Sitamarhi, in connection with Bela P.S. Case No. 118 of 2023 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner 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 shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner 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 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.

8. With the aforesaid observations, the anticipatory bail application is allowed.

(Rajiv Roy, J)

Adnan/-

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