

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66703 of 2024

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

Md. Jakir Miyan @ Md. Jakir @ Jakir Miyan Son of Md Ashique Resident of
Mohalla- Bhalua 1, PS- Belaganj, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

Mrs. Swati Parmar, Adv.

For the Opposite Party/s : Mr.Aditya Narayan Singh.1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 27-09-2024 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 offences under Section 379, 411 of the Indian Penal Code and 21 MM(DR) Act, 1957 and Rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021.

03. As per prosecution case, petitioner and other co-accused persons committed theft of sand by illegally mining it from the banks of river Falgu. Petitioner and other co-accused persons excavated 37,000 cubic feet of sand and caused revenue loss of Rs. 39,40,500/- to the State Government.

04. Learned counsel for the petitioner submits that the



petitioner is innocent and has been falsely implicated in this case. On the date of occurrence, the petitioner was not even present near the spot and only due to suspicion his name was given in this case. Nothing incriminating has been recovered from the conscious possession of this petitioner. The petitioner has been named in this case by the *chowkidar* merely on suspicion. A number of persons have been made accused in this case along with this petitioner with completely vague allegation. No official complaint has been filed in terms of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021. Learned counsel further submits that the petitioner has been made accused in high handedness of the police and he is having antecedent of six cases however, similarly placed co-accused person having similar antecedent and other co accused persons named in this case in the same manner as this petitioner have been granted anticipatory bail by this Court *vide* order dated 06.09.2024 passed in Cr. Misc. No. 39190 of 2024.

05. Learned A.P.P. for the State opposes the submission made on behalf of the learned counsel for the petitioner. Learned A.P.P. submits that the petitioner and other co-accused persons by their illegal mining caused loss to the Government.

06. Having regard to the facts and circumstances and



submission made on behalf of the parties and considering the vague nature of allegation against the petitioner 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) each with two sureties of the like amount each to the satisfaction of Court of learned C.J.M., Gaya 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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