

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80751 of 2023

Arising Out of PS. Case No.-442 Year-2023 Thana- BARHARA District- Bhojpur

=====

AJEET KUMAR SINGH @ AJIT SINGH, SON OF CHANDESHWAR
SINGH R/O VILLAGE- FUHAN, P.S.- BARHARA, DIST.- BHOJPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE DIRECTOR, MINING DEPARTMENT, GOVT. OF BIHAR, PATNA.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr.Gopal Govind Mishra, Advocate.
For the Mines	:	Mr.Naresh Dixit, Spl.PP.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 10-01-2024 Heard Mr. Gopal Govind Mishra, learned counsel

 appearing on behalf of the petitioner and Mr. Naresh Dixit,

 learned Special P.P. for the Mines.

2. The petitioner seeks pre-arrest bail in connection with Barahara P.S. Case No. 442 of 2023 registered for the offence punishable under Sections 379 and 411 of the Indian Penal Code and Sections 39(1), 56(1)(2) of the BM (CPIMTS) Amendment Rules, 2021.

3. As per the allegation made in the F.I.R., 16 accused persons named in the F.I.R. including the petitioner were involved in storage and selling of huge quantity of sand without any mining license.

4. Learned counsel appearing on behalf of the petitioner submits that there is general and omnibus allegation



against the petitioner and other accused persons named in the F.I.R. and without determining their specific role in alleged storing of the sand and its selling, the petitioner cannot be held solely liable for storing the huge quantity of sand as allegedly worth Rs.37,40,000/-. The petitioner, however, submits that even false accusation has been made against him, he is ready to get rid of the present criminal case by depositing 1/16th of the amount as determined by the District Mining Officer, Bhojpur. He, however, submits that in absence of any determination made by the District Mining Officer with respect to the sand which was found and has been seized by him, it cannot be said on imaginary basis that total quantity of 16800 CFT of sand was present at the site and the petitioner along with other accused persons is liable for the revenue loss caused to the State.

5. Mr. Naresh Dixit, learned Special P.P. for the Mines submits that in terms of Section 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as “Rules, 2019”), the petitioner can avail remedy and deposit the amount as determined by the District Mining Officer.

6. Considering the aforesaid submission made on behalf of the parties as well as the allegation made in the F.I.R.,



it is not unknown to the common citizen that the sand and stone chips are stored by the unlicensed persons and is being sold in open market. However, the petitioner has remedy under Section 56 of the Rules, 2019 and the petitioner along with other accused persons named in the F.I.R. may deposit entire amount as determined by the District Mining Officer and can also raise objection to the amount which has been alleged to have been stored by them in the F.I.R.

7. The District Mining Officer must quantify the total amount afresh in accordance with the scientific measures and a copy of the report to the petitioner so that they can deposit the amount as determined by him in accordance with law within a period of six weeks from the date of passing of this order.

8. The District Mining Officer must give the calculation of the total loss caused to the State Government within a period of one week from the date of communication of this order.

9. This Court makes it clear that the District Mining Officer, Bhojpur must not delay in any manner to hand over the calculation chart determining the total amount payable by all the 16 F.I.R. named accused persons within one week from the date of communication of this order.



10. The petitioner, in case deposits the amount as determined, is directed to be released on pre-arrest bail provisionally for a period of six weeks, in the event of his arrest or surrender before the Court below within a period of three 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 Chief Judicial Magistrate, Bhojpur, Ara in connection with Barahara P.S. Case No. 442 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

11. In case the petitioner furnishes copy of the order of the District Mining Officer, Bhojpur to the effect that petitioner has deposited the compounding amount, the provisional bail granted to the petitioner shall be made absolute on such terms and conditions as the court below deems it fit and proper.

12. In case the petitioner fails to deposit the amount within a period of six weeks, this order will automatically lose its force.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

