

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80544 of 2024

Arising Out of PS. Case No.-211 Year-2024 Thana- RANIYATALAB District- Patna

Shabnam Ranjan D/O-Lalmun Sharma, Wife of Kanhaiya Kumar Permanent resident of Village-Bavan Kanpa, PO- Saidabad, PS- Ranitalab, District -Patna (Bihar), and presently residing at the address Shivpuri Colony, Opposite S.S. College, Jodhadih More, Chas Bokaro, Jharkhand-827013

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Anand
For the Opposite Party/s : Mr.Abhay Kumar Roy

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 11-12-2024 1. Heard the parties.

2. The petitioner apprehends his arrest in connection with Ranitalab P.S. Case No. 211 of 2024 registered under Sections 379, 411 and 34 of the I.P.C.

3. As per the prosecution case on 11.06.2024 while the informant was in patrolling duty and got information that illegal mining of sand was being done near the beer factory and upon this information proceeded towards the place of occurrence and upon seeing the police party the driver of the Poklane started fleeing and succeeded in the same. Thereafter, the Police seized a red colour Poklane machine of Tata Hitachi having serial no. SP21-60020 and in front portion of the seized Poklane machine yellow sand was found on the bucket.



4. Learned counsel for the petitioner submits that Poklane machine in question was initially purchased by one Rajiv Ranjan and he sold the Poklane machine in favour of the petitioner on 17.01.2024, which was hypothecated with the Indian Bank and after satisfying the loan and grant of N.O.C. from the Bank the petitioner became the owner of the Poklane machine. The sale-purchase agreement of the machine is at Annexure- 2 series. Learned counsel next submits that the Poklane machine had broken down due to mechanical problem and was in standing position near the house of Dayanand Yadav but the Police with oblique motive has seized the machine alleging that illegal mining of sand was being done with the help of Poklane machine. Referring to the F.I.R., learned counsel submits that the informant has stated that on 11.06.2024 at 9:40 A.M. he got instruction from the S.H.O. regarding illegal mining near the beer factory and thereafter he proceeded towards the place of occurrence but from the seizure list it appear that Poklane machine was seized at 7:30 A.M. in the morning. He further points out that in the seizure list it has been mentioned that one yellow colour Poklane machine was seized whereas in the F.I.R. the description of the machine is of red colour which creates doubt on the prosecution story. Referring



to the notification dated 22.12.2022 of the Transport Department, Government of Bihar, learned counsel submits that as per sub- section 28 of Section 2 of the Motor Vehicles Act, 1988 the Poklane machine shall not fall under the definition of “motor vehicle”, as such, registration is not required under the Motor Vehicles Act. Poklane is a chain mounted earth moving excavators which are used to operate in enclosed premises at construction sites. Therefore, its registration is not required. Referring to the impugned order, learned counsel submits that the bail application of the petitioner has been rejected on the ground that he is not the registered owner of the Poklane machine as such, the petitioner has no apprehension of arrest. Learned counsel pointed out the insurance paper annexed at Annexure – 2 series and submits that insurance of the machine stands in the name of the petitioner.

5. Regard being had to the submission made by the parties, taking into consideration the materials on record in totality and the nature of allegation, I am inclined to grant anticipatory bail to the petitioner.

6. Let the petitioner, above named, be released on anticipatory bail in the event of arrest or surrender before the court below within a period of four weeks from today on



furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Sri Dilip Kumar Shah, J.M. 1st Class, Danapur in connection with Rani Talab P.S. Case No. 211 of 2024 subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anil Kumar Sinha, J)

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