

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6229 of 2025

Arising Out of PS. Case No.-22 Year-2023 Thana- SHYAMPUR BHATHAN District-
Sheohar

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Rahul Kumar Son of Achhelal Prasad, Resident of Village- Madhuahabrit,
P.S.- Rajepur, Distt.- East Champaran. Petitioner/s
Versus

1. The State of Bihar.
2. The Secretary, Department of Mines and Minerals, Govt. of Bihar, Patna.
... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate
For the Opposite Party/s : Mr.Raj Ballabh Singh, APP
For the Mines Dept. : Ms. Shruti Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 23-07-2025 Heard learned counsel appearing on behalf of the

petitioner, learned APP appearing on behalf of the State and

learned counsel appearing on behalf of the Mines Department.

2. The petitioner seeks bail in connection with

Shyampur Bhathan P.S. Case No. 22 of 2023 registered for the

offence under Sections 379, 411 of the Indian Penal Code and

Section 56(2) of Bihar Minerals (Concession, Prevention of Illegal

Mining Transportation & Storage) Rules, 2019 amended 2021 and

Section 15 Environmental Protection Act.

3. The accused/petitioner is in custody since

03.12.2024.

4. Allegation against petitioner is that his JCB was

engaged in illegal mining of sand from branch of river Bagmati.



5. Learned Counsel appearing on behalf of the petitioner submitted that the petitioner was not actually involved in illegal mining of sand, rather he was implicated with present case as his JCB was involved in illegal mining. In this context, it is submitted that the petitioner sold his JCB machine on 17.02.2023 to one Jagdish Kumar S/o Jaygovind Prasad, Village- Madhuaha Brit, P.S. Rajepur, East Champaran, and executed all relevant papers which was required for its transfer on same very day, which subsequently transferred to aforesaid Jagdish Kumar in month of June, 2023. It is pointed out that considering the aforesaid aspects, petitioner was given benefit of Section 41 of the Cr.P.C. during investigation but as he could not deposited the aforesaid documents executed in favour of Jagdish Kumar during investigation, police cancelled his privilege as given under Section 41 of Cr.P.C., whereafter petitioner approached this Court for anticipatory bail but same was also denied as he was already taken into custody by police while giving benefit of Section 41 of the Cr.P.C. as discussed aforesaid. It is submitted that after rejection of anticipatory bail i.e Cr. Misc. No. 73666 of 2024 dated 26.10.2022, the petitioner was taken into custody by police and, since then he is in custody, for no fault. Petitioner is a man of clean antecedent.

6. Ms. Shruti Singh, learned counsel appearing for



Department of Mines categorically stated that the JCB in issue transferred in favour of Jagdish Kumar only in the month of June 2023 i.e. much after the occurrence. However, she could not disputed the documents regarding transfer of vehicle in favour of Jagdish Kumar as submitted aforesaid, which was executed on 17.02.2023, much before lodging the FIR against petitioner

7. Considering the aforesaid facts and circumstances and by taking note of fact as JCB in issue *prima facie*, appears sold to one Jagdish Kumar as discussed aforesaid on 17.02.2023 much before the occurrence, coupled with the fact that petitioner is in custody since 03.12.2024, accordingly, petitioner above named, is directed to be released on bail in connection with Shyampur Bhathan P.S. Case No. 22 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-III, Sheohar/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C./Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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