

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36823 of 2025

Arising Out of PS. Case No.-5 Year-2024 Thana- ISHUPUR BARAHAT District- Bhagalpur

Moharram Ansari @ Md. Moharam Ansari S/O Late Julu Rahman R/O
Village- Nayanagar, P.S- Ishipur Barahat, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Mining Officer, District Mining Office, Bhagalpur. Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 37633 of 2025

Arising Out of PS. Case No.-5 Year-2024 Thana- ISHUPUR BARAHAT District- Bhagalpur

Md. Rizwan Aalam @ Md. Rizwan Ansari Son of Md. Yasin Ansari Resident
of village - Naya Nagar, Raigaon, Barmasia, P.S.- Ishupur Barahat, District -
Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Santosh Parkash Jha Son of Shri Kaushal Jha R/o village - Mauhbehat, P.S.-
Manigachi, District - Darbhanga.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 37689 of 2025

Arising Out of PS. Case No.-5 Year-2024 Thana- ISHUPUR BARAHAT District- Bhagalpur

Md. Dildar Hussain S/o Md. Abdul Halim R/o Village-Nayanagar, P.S-Ishipur
Barahat, District-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Mining Officer, District Mining Office, Bhagalpur Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 36823 of 2025)

For the Petitioner/s : Mr. Manoj Kumar Jha

For the Opposite Party/s : Ms. Sharda Kumari



(In CRIMINAL MISCELLANEOUS No. 37633 of 2025)

For the Petitioner/s : Mr. Bibhuti Narayan

For the Opposite Party/s : Mr. Rabindra Kumar

(In CRIMINAL MISCELLANEOUS No. 37689 of 2025)

For the Petitioner/s : Mr. Manoj Kumar Jha

For the Opposite Party/s : Ms. Sharda Kumari

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 21-08-2025 **CRIMINAL MISCELLANEOUS No.36823 of 2025**

1. Heard learned Senior counsel for the petitioner, Mr. Y.C. Verma, learned APP for the State and the learned counsel appearing on behalf of the Department of Mines.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code read with Sections 39, 39(3) and 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

3. The learned APP for the State, at the outset, submits that the law is clear that where offences for which an FIR has been instituted carries punishment of seven years and less, the arrest is not automatic. It is next submitted that in the event if the police intends to arrest an accused who is implicated in a case relating to offences which carries punishment of seven years or less in that event the police has to resort to certain procedures as incorporated in the Cr.P.C. i.e. the police first has to give a notice under Section 41A of the Cr.P.C. The learned



APP next submits that anticipatory bail may or may not be maintainable after the accused receives notice under Section 41A of the Cr.P.C, as it will depend on the facts and circumstances of the case, because the police even after issuance of notice under Section 41A of the Cr.P.C. cannot arrest the accused without seeking permission of the learned Magistrate. It is also submitted that there is no pleading in the anticipatory bail application which could even remotely suggest that notice under Section 41A of the Cr.P.C has been issued to the petitioner.

4. The learned Senior counsel appearing on behalf of the petitioner is not in a position to rebut the submission of the learned APP for the State, but then submits that of late, the police even without issuing notice under Section 41A of the Cr.P.C are arresting mechanically, on which the learned APP submits that in the event if the police without resorting to procedure as envisaged under the law arrests the person in breach of the same in that event the police officer will also be held liable.

5. At this stage, the learned Senior counsel appearing on behalf of the petitioner seeks permission to withdraw the anticipatory bail application with liberty to file an application before the concerned Superintendent of Police in terms of



Section 41A of the Cr.P.C.

6. Permission is accorded.

7. Accordingly, the present anticipatory bail application is dismissed as withdrawn with the liberty aforesaid.

CRIMINAL MISCELLANEOUS No. 37633 of 2025

1. Heard learned Senior counsel for the petitioner, Mr. Y.C. Verma, learned APP for the State and the learned counsel appearing on behalf of the Department of Mines.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code read with Sections 39, 39(3) and 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

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5. At this stage, the learned Senior counsel appearing on behalf of the petitioner seeks permission to withdraw the anticipatory bail application with liberty to file an application



before the concerned Superintendent of Police in terms of Section 41A of the Cr.P.C.

6. Permission is accorded.

7. Accordingly, the present anticipatory bail application is dismissed as withdrawn with the liberty aforesaid.

CRIMINAL MISCELLANEOUS No. 37689 of 2025

1. Heard learned counsel for the petitioner, learned APP for the State and the learned counsel appearing on behalf of the Department of Mines.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code read with Sections 39, 39(3) and 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

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anticipatory bail application with liberty to file an application before the concerned Superintendent of Police in terms of Section 41A of the Cr.P.C.

6. Permission is accorded.

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(Satyavrat Verma, J)

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