

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56875 of 2024

Arising Out of PS. Case No.-1189 Year-2023 Thana- BIHTA District- Patna

Binda Ray @ Vinda Ray, S/o Late Kamat Ray, R/o Amanabad, P.S.-Bihta,
District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bihar Mines Department.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Patanjali Rishi, Advocate
		Ms. Perna Rishi, Advocate
For the State	:	Mr. Prem Kumar Jha, APP
For the Mines Deptt.	:	Mr. Sumit Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 05-03-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State duly assisted by

learned counsel appearing on behalf of Department of Mines.

2. The accused/petitioner is named in the FIR and

apprehending his arrest in connection with Bihta P.S. Case

No.1189 of 2023 registered under Sections 147, 148, 149,

447, 379, 386, 506 and 504 of the Indian Penal Code.

3. Allegation against the petitioner is to involve in

illegal activities of sand mining, where the sand alleged to be

stolen from the land of one Rambalak Rai and Mahenda Rai.

4. It is submitted by learned counsel that petitioner

has been falsely implicated with present case because



information was supplied by the complainant Rambalak Rai to the Inspector, Mining Department, who appears complainant before Mining Inspector, who is the informant of this case but, when it appear that he may be implicated with illegal mining activities for the reason of giving authorization to petitioner, he filed a criminal writ before the High Court, which was registered as Cr.W.J.C. No.345/2023 and thereafter, he made a complaint before Mines and Minerals Inspector regarding activities of the petitioner as aforesaid. It is submitted that the present complaint was made out of oblique motive, whereas with almost same allegation, the co-accused namely, Shambhu Rai and Sanjay Rai have been granted anticipatory bail by the court of Additional Sessions Judge-VII, Danapur but, the prayer for grant of anticipatory bail of this petitioner was rejected merely for the reason that he was found involved in three more criminal cases.

5. It is further submitted by learned counsel that the prayer of bail of petitioner ordinarily should not be declined, if available merit appears in his favour. Explaining the allegation, it is further submitted by learned counsel for



the petitioner that it is not a case where petitioner was alleged to be engaged with storage of illegal sand or found involved in transporting of illegal sand rather he was alleged to be involved in extraction of sand on the basis of information of a private person, who appears having oblique motive against the petitioner. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Prabhakar Tewari vs. State of U.P. & Ors. [(2020) 11 SCC 648]**.

6. Learned counsel appearing on behalf of Department of Mines while opposing the prayer of bail submitted that this is a case of illegal mining and petitioner was found involved in similar cases.

7. In view of aforesaid factual submissions and by taking note of fact as the prosecution appears initiated on the basis of information supplied by private person and not by the Department of Mines itself, where nothing incriminating *prima facie* appears recovered from petitioner, accordingly, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender in the court below



within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-I, Danapur, Patna in connection with Bihta P.S. Case No.1189 of 2023, subject to the conditions as laid down under Section 438(2) of the CrPC/under Section 482(2) of the BNSS and with further conditions:-

- (i) That petitioner shall not indulge in similar nature of case till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.
- (ii) That petitioner shall co-operate in investigation and also in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial. In case of non-cooperation in investigation and trial may lead to cancellation of bail bond of petitioner, if made by the State before the learned trial court itself.

(Chandra Shekhar Jha, J.)

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