

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56543 of 2024

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

Gopal Rai, S/o Ram Dayal Rai @ Sri Ram Dayal Rai, R/o Village- Amnabad,
P.S- Bihta, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Senior Advocate
		Mr. Usha Kumari Singh, Advocate
For the Opposite Party/s :		Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 05-03-2025 Heard learned senior counsel appearing on behalf of 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 Mr. Yogesh Chandra Verma, learned senior 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 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 further submitted that the complainant Rambalak Mahto has made an agreement dated 23.03.2020 with the petitioner regarding excavation of sand pertaining to Khata No.42 Plot Nos. 14, 15, 16, 18 and 29 measuring total area of one bigha, which is annexed as Annexure-P/2 of the petition. 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 were 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 six more criminal cases.



5. It is further submitted by Mr. Verma 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 Mr. Yogesh Chandra Verma, learned senior 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 a private information and not by the Department of



Mines itself, where informant himself appeared into an agreement with petitioner for excavation of sand from his field, 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 A.C.J.M.-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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