

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55283 of 2025

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

Binod Kumar Gupta S/o- Jagdish Prasad Gupta R/o- Nimgachi Mirzachouki,
Mandro Ps- Mirzachouki Dist- Sahebganj, Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Mineral Development Officer, Bhagalpur Bihar
3. The Mines Inspector, Bhagalpur Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Avinash Chandra, Advocate
For the Opposite Party/s : Mr. Jai Narain Thakur, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 27-08-2025 Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the Respondent Nos.
2 and 3.

2. The petitioner is apprehending his arrest in connection with Ishipur Barahat P.S. Case No. 05 of 2024 registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code and Rule 11, 39(1), (2), (3), (4), 43 and 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rule 2019 (Amended Rule, 2021).

3. As per prosecution case, the raid was conducted by police and official of mining department regarding



restraining the illegal mining at different places. During raid, (i) 2000 cubic ft stone dust and 1500 cubic ft stone chips were found stored at one place and (ii) 1000 cubic feet stone chips and 1200 cubic ft bolder were found in nearby places of Namanagar and the same was seized. Further, (i) 1100 cubic ft stone dust, (ii) 1200 cubic ft stone chips and 1000 cubic ft stone dust and (iii) 800 cubic ft dust were found illegally stored at three places of Gauripur and its nearby places and the same was seized. One loader in question was also seized. In this way, a huge loss of government revenue has been caused. On that basis Ishipur (Barahat) P.S Case No. 05/24 was registered.

4. Learned counsel for the petitioner submits that petitioner is not named in FIR. He further submits that from the perusal of impugned order, it is crystal clear that name of petitioner has been disclosed by witness and nearby persons. He further submits that petitioner is daily wages labour. He has nothing to do with the materials seized by the police and mining department. He further submits through paragraph 7 of the instant petition that petitioner is neither owner of the land on which the alleged minerals have been seized nor the owner or driver of the seized vehicle in question. He further submits that the name of the petitioner has been surfaced in this case merely



on the basis of suspicion. Except suspicion, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. He further submits that Section 5 of IPC clearly provides that if any special law is applicable, then, no offence will be made out under the provisions of IPC. Petitioner is innocent and has committed no offence as alleged in the FIR and he has falsely been implicated in this case. Petitioner bears no criminal antecedent. It has been orally submitted that petitioner will not abscond rather will cooperate in the investigation to prove his innocence.

5. The learned A.P.P. for the State as well as learned counsel for respondent no. 2 and 3 opposed the prayer for anticipatory bail of the petitioner by submitting that the storage of stone chips and the materials as alleged in the FIR causing loss to the Government and for the purpose of restraining the said activity, the informant and his team conducted raid and the role of present petitioner cannot be ruled out. Hence, petitioner does not deserve anticipatory bail.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioner, argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioner



above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist, Class, Bhagalpur in connection with Ishipur Barahat P.S. Case No. 05 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

8. However, it is made clear that if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner despite giving assurance to this Court is not co-operating in the investigation, in that event, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner.

(Alok Kumar Pandey, J)

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