

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66710 of 2025

Arising Out of PS. Case No.-38 Year-2025 Thana- RAJAOLI District- Nawada

Udesh Kumar S/o Sudhir Prasad R/o Village - Chautha, P.S - Rajauli, District
- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar

For the Opposite Party/s : Mr. Rajendra Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 01-11-2025 1. Heard learned counsel for the petitioner Ms. Suhani
Singh and the learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 303(2),
317(2), 111 of the B.N.S.

3. Learned counsel appearing on behalf of the
petitioner submits that prior to institution of the instant FIR, the
petitioner was a person with clean antecedent. It is next
submitted that in sum and substance, the informant alleges that
3500 cft of stone chips along with 7 tractors were recovered
from the place of occurrence, accordingly, the instant FIR was
instituted alleging that accused were involved in illegal mining.

4. Learned counsel for the petitioner submits that
petitioner is not named in the FIR nor the tractors which were



seized from the place of occurrence belongs to him. It is also submitted that the seized tractors have already been released by the police in favour of their owner. It is next submitted that the seized stone chips were subsequently stolen for which Rajauli P.S. Case No.41/2025 was instituted, in which the petitioner was named as an accused but then the said FIR was instituted after institution of the instant FIR. It is also submitted that the name of the petitioner in the instant FIR transpired one month after the occurrence in restatement of the informant. It is thus submitted that since informant had instituted Rajauli P.S. Case No.41/2025 naming the petitioner as an accused, as such in the instant FIR also implicated him. It is further submitted that Section 111 BNS in the nature of allegation as alleged in the FIR is not made out, in view of Section 111(ii) BNS, which incorporates-

Organized crime (ii) *"continuing unlawful activity" means an activity prohibited by law which is a cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence, and includes economic offence;*



It is thus submitted that FIR does not even remotely suggest that petitioner is a member of any syndicate nor it has come during the course of investigation that any chargesheet has been submitted with respect to a syndicate of which petitioner is a member. It is also submitted that petitioner was granted the privilege of anticipatory bail by the learned District Court in Rajauli P.S. Case No.41/2025.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Rajauli P.S. Case No.38/2025, subject to the conditions as laid down under Section 482(2) B.N.S.S.

(Satyavrat Verma, J)

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