

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9468 of 2026

Arising Out of PS. Case No.-367 Year-2025 Thana- GAYA MUFASIL District- Gaya

Dilip Malakar Son of Jayram Malakar @ Jairam Malakar Resident of Village
- Bhadeja, Police Station - Gaya Muffasil, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mines Inspector, Gaya, Dist.- Gaya. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aryan Singh, Advocate
For the Opposite Party/s	:	Mr. Binod Kumar, APP
For the Mines	:	Mr. Naresh Dikshit, Spl.P.P., Mines Ms. Shruti Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

2 19-02-2026 Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for the Mines.

2. The petitioner has prayed for regular bail in a case registered for the offence punishable under sections 111(3), 111(4), 303(2), 317(2), 317(4), 317(5) and 61(2) of BNS, Section 21 of the Mining and Mineral Development Act and Section 56 of the Bihar Minerals Rule.

3. The case of the prosecution is that police had input that 60-70 persons are indulged in illegal mining of sand from *falgu* river. On this information, police raided the place and they found 15-20 tractors and 50-60 persons were loading sand on the tractor. All the miscreants started fleeing away seeing the



police. They could not be apprehended.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Learned counsel for the petitioner has submitted that it is not clear from the FIR, as to how the informant has come to know about the name of the persons and who has informed him regarding the names. Learned counsel has further submitted that from perusal of the order of the learned trial court, it will transpire that learned trial court itself has granted bail to the petitioner on the condition that he will deposit Rs. 1,91,654/- to the Mines Department. He has further submitted that from perusal of the FIR, it is not clear as to how much of sand was being excavated by this petitioner. He has also submitted that the bail granted bail learned trial court has been canceled as the petitioner has not deposited the amount. He has further submitted that conditional bail on the ground that the petitioner should deposit a given sum, such orders should not be passed in view of the catena of judgments of the Hon'ble Supreme Court. This is called the practice of arm twisting which is not permitted in the eye of law. Anyhow, the petitioner was granted the privilege of bail on merit, this cannot be rejected only on the ground that he has not fulfilled the conditions of depositing sum of above said



amount. Moreover, the petitioner is languishing in judicial custody since 02.07.2025.

5. Learned APP appearing for the State and learned counsel for the Mines have vehemently opposed the prayer of regular bail.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Gaya Muffasil P.S. Case No. 367 of 2025 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya.

(Ashok Kumar Pandey, J)

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