

(2020) 11 PAT CK 0017

Patna High Court

Case No: Criminal Miscellaneous No. 25384 Of 2020

Nathuni Ray

APPELLANT

Vs

State Of Bihar

RESPONDENT

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**Date of Decision:** Nov. 5, 2020**Acts Referred:**

- Indian Penal Code, 1860 - Section 379, 411
- Mines And Minerals (Development And Regulation) Act, 1957 - Section 21
- Environment Protection Act, 1986 - Section 15
- Bihar Minerals (Concession, Prevention Of Illegal Mining, Transportation And Storage) Rules, 2019 - Rule 8
- Bihar Minor Mineral Concession Rules, 1972 - Rule 40

**Hon'ble Judges:** Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Dineshwar Mishra, Jharkhandi Upadhyay**Final Decision:** Dismissed

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**Judgement**

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Dineshwar Mishra, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned In-charge Additional Public Prosecutor

(hereinafter referred to as the "APP" for the State.

3. The petitioner apprehends arrest in connection with Banka PS Case No. 105 of 2020 dated 07.02.2020, instituted under Sections 411 and 379 of the

Indian Penal Code; Rule 8 of the Bihar Minerals (Concession Prevention of illegal Mining, Transportation and Storage) Rules, 2019, Rule 40 of the

Bihar Minor Mineral Concession Rules, 1972; Section 21 of the Mines and Minerals (Development and Regulation) Act 1957 and Section 15 of the Environment Protection Act, 1986.

4. The allegation against the petitioner is that from his truck, there was recovery of sand without any papers to show that it was authorized.

5. Learned counsel for the petitioner submitted that he is a resident of Samastipur and the truck was caught in the district of Banka and whatever was

found on it was without any knowledge or permission of the petitioner and for which the driver is responsible. Learned counsel submitted that even

under the statute, the offence is compoundable. Further, it was submitted that the petitioner has no criminal antecedent.

6. Learned APP submitted that the matter relating to violation of environmental laws, offence being compoundable may not be very relevant.

However, it was submitted that it is for the petitioner to take steps if there is any provision, but on merits in the present case, illegal sand recovered

from the truck admittedly owned by the petitioner, responsibility has to be taken by him and he cannot plead ignorance or innocence. It was further

submitted that the petitioner being resident of Samastipur and his truck having gone to Banka and on which illegal sand was found could not have been

possible without the consent and knowledge of the petitioner as no driver would take the vehicle of any person to such a far without the owner being

aware of what the vehicle was being used for.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-

arrest bail to the petitioner.

8. Accordingly, the application stands dismissed.