

(2012) 05 JH CK 0023

Jharkhand High Court

Case No: A.B.A. No. 653 of 2012

Sanjay Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision: May 18, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 438(2)
- Mines and Minerals (Development and Regulation) Act, 1957 - Section 21
- Penal Code, 1860 (IPC) - Section 120B, 34, 414, 467, 468

Citation: (2012) 4 JCR 356

Hon'ble Judges: Jaya Roy, J

Bench: Single Bench

Advocate: Indrajit Sinha, for the Appellant;

Judgement

Jaya Roy, J.

Heard the learned counsel for the petitioner and the learned counsel for the State. The petitioner is an accused in a case registered under Sections 414/467/468/471/120B and 34 of the I.P.C. and section 21 of M.M.R.D. Act. i.e. Jamtara P.S. Case No. 234 of 2010, G.R. No. 633 of 2010.

2. The prosecution case in brief is that on 16.12.2010 Uttam Kumar Choudhary, A.S.I., Jamtara PS. Stating therein that he got information at 8.15 Hours from his high official that a Truck bearing registration No. JH15D/7710 is coming from Mihijam side towards Jamtara with illegal coal loaded there in. As per direction, informant along with other police personnel proceeded, reached near Gurg computer weighing machine situated at Mihijam, Jamtara Road at About 9.30 P.M. and found a truck bearing No. JH15D-7710 coming from Mihijam. Police gave signal to stop but driver did not stop the same. Any how police chased, intercepted and stopped the Truck for verification. On the first instance driver introduce himself as Shankar Debey but after verification of driving license, he was found identified as

Azad Kumar Rai. Further driver disclosed that owner of the vehicle namely Dinesh Singh whodirected him to go to Raniganj Chanda Mor and to meet with Sanjay Singh (the petitioner) who will arrange for loading of the Truck. As per direction, the driver went to Sripur Basti near Chanda Mor where Sanjay Singh, (present petitioner) with the help of 10-12 labourers loaded the said Truck and got its weighment slip. Thereafter, driver along Sanjay Singh (the petitioner) came to Dabar Mor near Mihijam, directed the driver to stop the vehicle and told that he is bringing the document. Thereafter, said Sanjay Singh (the petitioner) brought document of Super Briquette Industries, and handed over to the driver. Further it is informed by apprehended driver that Sanjay Singh got telephonic information that the police party is on vigil and after getting clearance, driver will proceed forward. It has further been informed that the petitioner in connivance with the other on the fraudulent document of Super Briquette Industries is illegally dealing the coal business.

3. The learned counsel appearing for the petitioner, has submitted that the petitioner is absolutely innocent and has not committed any offence and he has been falsely implicated in this case. He further submits that Mahendra Kumar Choudhary is owner of one firm and factory F/s Super Briquette Industries situated at Barwa Gobindpur and the said firm is duly registered firm having its factory license granted by the Inspector of factories and also the said firm is duly registered under Central Sales Tax Dept. as well as the states Sales Tax department. The petitioner by an agreement dated 15.9.2009 has taken on contract the management and business of the Factory M/s Super Briquette Industries, East Barwa, Gabindpur for running the same. The firm purchases coal from E.C.L. And B.C.C.L authority through valid documents and process the same in factory, prepares Briquettes and also sells the rejected raw materials that is slack coal to different customers. The petitioner on 14.12.2010 sold one truck loaded with rejected slack coal to M/s Maa Laxmi Brick Industries and dispatched the same through Truck no JH-15D-7710 and handed over cash memo cum credit memo, sales tax permit etc. The said truck passed Duburdih Sales Tax Check Post of West Bengal Government and obtained the clearance of Sales Tax department and thereafter proceeded to Jaridih. In the meantime on 16.12.2010 the said truck was intercepted by Jamtara Police and illegally seized the coal loaded there on. The petitioner has no concern with the truck he has only sold the coal to M/s Maa Laxmi Brick Industries through valid document.

4. The learned counsel for the petitioner further submits that the seized coal has been released after verifying the documents in favour of Gopal Krishna Sao, Proprietor of M/s Mahalaxmi Brick Industries Deoghar by order dated 29.07.2011 passed in Criminal Revision No. 26 of 2011 passed by the learned Sessions Judge, Jamtara. The petitioner has sold the coal through valid documents to Mahalaxmi Brick Industries. The petitioner has filed the said order dated 29.07.2011 in the supplementary affidavit dated 23.04.2012 and annexed as Annexure-3. The learned

counsel submits that this fact proves bonafide sale of coal by the petitioner as such, he is entitled to get anticipatory bail from this Hon"ble Court.

5. The learned counsel for the State has opposed the grant of anticipatory bail and submitted that at para-7 of the case diary it has come that witness has said that the petitioner and Dinesh Singh and Jay Shankar Jha purchase coal from Bengal and take it to Deoghar and sell it in high price manufacturing forged document. Supervision note also discloses the same thing as such the petitioner is not entitled to get anticipatory bail from the Hon"ble Court. After considering the submissions made by both the counsel of the parties and looking overall view of the matter, when the seized coal has been released in favour of Gopal Krishna Saw, Proprietor of Mahalaxmi Brick Industries, Deoghar by order dated 29.07.2011 after verifying the documents by the learned Sessions Judge, Jamtara, I direct the petitioner above named, to surrender before the trial court within one month from the date of this order i.e. (18.05.2012) and if the petitioner surrenders before the trial court within the said period, the trial court is directed to release the petitioner namely Sanjay Singh on bail, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of the court below/ Chief Judicial Magistrate, Jamtara in connection with Jamtara P.S. Case No. 234 of 2010, corresponding to G.R. Case No. 633 of 2010 subject to condition that one of the bailor will be local resident having immovable property within the jurisdiction of the concerned district and subject to condition laid down u/s 438(2) of Cr.P.C.