

**(2012) 05 JH CK 0057**

**Jharkhand High Court**

**Case No:** A.B.A. No. 4180 of 2011

Mahesh Pandey

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision:** May 7, 2012

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 438(2)
- Penal Code, 1860 (IPC) - Section 34, 413, 414, 467, 468

**Hon'ble Judges:** Jaya Roy, J

**Bench:** Single Bench

**Advocate:** Santosh Kumar, for the Appellant;

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**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 u/s 413/414/467/468/471 and 34 of the I.P.C.

2. The prosecution case in brief is that on the basis of the s(sic) statement of S.I. recorded on 27.8.2010 at about 16 hours at Kris(sic) Bazar Sammittee, Barwadda stating therein that he has received secrete information on telephone that one truck bearing registration number HR-55F-2618 loaded with illegal coal (Carbon) is coming from Dhanbad side and acting on the said information, the informant a(sic) other police officials reached at Hirak Point from Kishan Chowk at 2.(sic) P.M. and in the meantime they found that the said truck is coming from Dhanbad side then the informant police party stopped the said tr(sic) and checked. Then the driver of the said truck disclosed his name (sic) Umesh Kumar and he further disclosed that in the said truck R(sic) Coal Carbon is loaded thereon. On perusing the Challan it is found (sic) said challan was issued by Aadiwasi Coal Industries, Purulia (W(sic)) Bengal) in favour of Summet Coal & Coke Trading, Sasaram, Bihar. Weighment slip is also attached with the aforesaid challan. It is further alleged in the said F.I.R. that on

enquiry, the driver disclosed that said Carbon Coal is being loaded from illegal coal Bhatta of (sic) Mandal of Jharia and Amish Gorain of Kargali situated at Kargali, (sic) Raghunathpur, -Dist.- Purulia and he further disclosed that Pa(sic) Transport is also involved in lifting the aforesaid coal as he had sent the driver there. On further enquiry and verification it is found there is no transporter at Kargali in Purulia.

3. The learned counsel for the petitioner has submitted that the petitioner has no concern with the coal neither he was present nor there is any evidence that in the instance of the petitioner, the coal was loaded on the truck even the petitioner was not found at the place of the occurrence. It is also contended that the petitioner has no criminal antecedent. It is further contended that another co-accused namely Jogender Singh Yadav has been granted anticipatory bail the another Bench of this Court in ABA No. 87 of 2011 vide order dated 15-06.2011. It is further contended that the antecedent report of the petitioner has come which shows the petitioner has no criminal antecedent.

4. The learned counsel of the State has filed counter affidavit and submitted though it has come in the impugned order that the petitioner is the owner of the truck seized in this case but in the case diary the name of the owner of the truck concerned is Chand Singh. The counsel of the State though objected the prayer for anticipatory bail but could not point out any material which can show the involvement of the petitioner in this case. The counsel for the State has submitted that the petitioner has been named by the driver of the truck namely Umesh Singh but he could not point out any material which can show the involvement of the petitioner in this case. It is further submitted that the investigation is still going on against the petitioner. Considering the submissions made by both the parties and as nothing has been pointed out against the petitioner and furthermore, the petitioner has no criminal antecedent as the report shows, I direct the petitioner namely Mahesh Pandey to surrender within a period of one month from the date of this order. If the petitioner surrenders within the said period, the trial court is directed to release the petitioner namely Mahesh Pandey 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, Dhanbad, in connection with Govindpur (Barwadda) P.S. Case No.325 of 2010, corresponding to G.R. No. 2948 of 2010, subject to the conditions as laid down u/s 438(2) Cr.P.C. and further conditions that (i) one of the bailors would be local resident having immovable property within the jurisdiction of the District concerned (ii) the petitioner will remain physically present before the Court below once in every month on the date fixed for trial till the conclusion of the trial, otherwise his bail bond shall stand cancelled.