

Broad Son Commodities Private Limited vs The State Of Bihar, Through Principal ... on 16 May, 2025

Author: Chandra Shekhar Jha

Bench: Chandra Shekhar Jha

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.387 of 2022

Arising Out of PS. Case No.-689 Year-2021 Thana- BIHTA District- Patna

=====

Broad Son Commodities Private Ltd. through its authorised signatory Santosh Kumar Son of Late Nageshwar prasad a company incorporated under the Provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District - Bhojpur (Ara), resident of Village/Mohalla 100, Pipra Pakadi, P.O. Pipra Pakadi, P.S. Bettiah Mufassil, District - West Champaran.

... .. Petitione

Versus

1. The State of Bihar through Principal Secretary, Home, Government of Bihar, Patna Bihar
2. The Principal Secretary, Home, government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Patna. Bihar
5. The officer In Charge, Bihta Police Station, Patna. Bihar
6. The Principal Secretary, Mines and Geology Deptt., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar.
7. The Assistant Director, Mines and Geology Deptt., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna. Bihar
8. The District Magistrate Cum Collector, Patna. Bihar.
9. The Mines Inspector, District Mining office, Patna. Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 396 of 2021

Arising Out of PS. Case No.-260 Year-2020 Thana- RANIYATALAB District- Patna

=====

Broad Son Commodities Pvt. Ltd. A company incorporated under the provisions of the companies Act, 1956 having its registered office at Dr. Himanshu Complex, block Road, Koilwar Chouk, P.S. Koilwar, District - Bhojpur (Ara), through its Director, Ashok Kumar aged about 65 years , Son of Ram Chandra Saw, resident of Village /Mohalla- Pareo, P.S. Bihta, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home, Govt. of Bihar, Old

Secretariat, Patna Bihar

2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

2/102

3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Patna. Bihar
5. The Officer In Charge, Rani Talab Police Station, Patna. Bihar
6. The Principal Secretary, Mines and Geology Deptt. Govtt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
7. The Assistant Director, Mines and Geology Department, Govtt. of Bihar, Vikas Bhawan, Bailey Road, Patna.
8. The District Magistrate cum Collector, Patna. Bihar
9. The Mines Inspector, District Mines office, Patna. Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 501 of 2021

Arising Out of PS. Case No.-864 Year-2020 Thana- BIHTA District- Patna

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. - koilwar, District - Bhojpur (Ara), through its Director, AShok Kumar aged about 65 Years Son of Ram Chandra Saw, resident of Village/Mohalla - Pareo, P.S. Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Patna. Bihar
5. The Officer -In Charge, Bihta Police Station, Patna Bihar
6. The Principal Secretary, Mines and Geology Deptt., Government of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
7. The Assistant Director, Mines and Geology Deptt. Government of Bihar, Vikas Bhawan, Bailey Road, Patna. Bihar
8. The District Magistrate cum Collector, Patna. Bihar
9. The Mines Inspector, District mines office, Patna. Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 388 of 2022

Arising Out of PS. Case No.-179 Year-2021 Thana- SANDESH District- Bhojpur

=====

Broad Son Commodities Private Limited through its Authorised Signatory Santosh Kumar S/o Late Nageshwar Prasad A Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara) through its authorised Singnatory Santosh Kumar S/o Late Nageshwar Prasad, Resident of Village/ Mohalla 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, thorough Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna.
4. The Superintendent of Police, Bhojpur. Bihar
5. The Officer in Charge, Sandesh Police Station, Bhojpur Bihar
6. The Principal Secretary, Mines and Geology Department, Government of Bihar. Vikas Bhawan, Bailey Road, Patna.
7. The Assistant Director, Mines and Geology Department, Government of Bihar. Vikas Bhawan, Bailey Road, Patna.
8. The District Magistrate cum Collector, Bhojpur. Bihar
9. The Mines Inspector, District Mining Officer, Bhojpur. Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 401 of 2022

Arising Out of PS. Case No.-183 Year-2021 Thana- CHANDI District- Bhojpur

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised signatory Santosh Kumar, aged about 42 years (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Sect. Home Govt. of Bihar, Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Bhojpur Bihar
5. The Officer in Charge, Chandi Police Station, Bhojpur Bihar

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

6. The Principal Sect., Mines and Geology Department, Govt. of Bihar, Vikas Bhawan Bailey Road, Patna, Bihar
7. The Assistant Director, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan Bailey Road, Patna, Bihar
8. The District Magistrate cum Collector, Bhojpur Bihar
9. The Mines Inspector, District Mining Officer, Bhojpur Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 404 of 2022

Arising Out of PS. Case No.-1018 Year-2020 Thana- DEHRI TOWN District- Rohtas

=====

Sadashiv Prasad Singh @ Sadashiv Prasad @ Sadashiv Singh Son pf
Maleshwar Singh R/o- 410, Ganeshalay Apartment, Jharudih, Near Carmel
School, Matkuria, Dhanbad, Jharkhand 826001

... .. Petitioner/s

Versus

1. The State of Bihar, Through Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Rohtas Bihar
5. The Officer In Charge, Dehri Police Station, Rohtas Bihar
6. The Principal Secretary, Mines And Geology Deptt., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
7. The Assistant Director, Mines And Geology Deptt., District Mining Office, Rohtas Bihar
8. The District Magistrate Cum Collector, Rohtas Bihar
9. The Mines Inspector, District Mining Office, Rohtas Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 413 of 2022

Arising Out of PS. Case No.-115 Year-2021 Thana- IMADPUR District- Bhojpur

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised signatory Santosh Kumar, aged about 42 years (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran
Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

5/102

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Bhojpur Bihar
5. The officer In Charge, Imadpur Police Station, Bhojpur Bihar
6. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan Bailey road, Patna, Bihar
7. The Assistant Director, Mines and Geology Dept., Govt. of Bihar, Vikas Bhawan, Baily Road, Patna Bihar
8. The District Magistrate cum Collector, Bhojpur Bihar
9. The Mines Inspector, District Mining Officer, Bhojpur Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 462 of 2022
Arising Out of PS. Case No.-335 Year-2021 Thana- PALIGANJ District- Patna

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised Signatory Santosh Kumar, aged about 42 Yeras (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla- 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran

... .. Petiti

Versus

1. The State of Bihar through Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
 2. The Principal Secretary, Home Government of Bihar, Old Secretariat, Patna Bihar
 3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
 4. The Superintendent of Police, Patna Bihar
 5. The Officer in Charge, Paliganj Police Station, Patna Bihar
 6. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
 7. The Assistant Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan Bailey Road, Patna, Bihar
 8. The District Magistrate cum Collector, Patna Bihar
- Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

6/102

9. The Mines Inspector, District Mining Office, Patna Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 465 of 2022
Arising Out of PS. Case No.-247 Year-2021 Thana- DORIGANJ District- Saran

=====

Broad Son Commodities Private Limited a company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised Signatory Santosh Kumar, aged about 42 Yeras (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla- 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna, Bihar
2. The Principal Secretary, Home Government of Bihar, Old Secretariat, Patna Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Saran Chapra Bihar
5. The Officer In Charge, Doriganj Police Station Saran, Chapra Bihar
6. The Principal Secretary, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan Bailey Road, Patna, Bihar
7. The Assistant Director, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan Bailey Road, Patna, Bihar
8. The District Magistrate cum Collector, Saran Bihar
9. The Mines Inspector, District Mining Officer, Saran Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 481 of 2022
Arising Out of PS. Case No.-540 Year-2021 Thana- BARHARA District- Bhojpur

=====

Broad Son Commodities Private Limited, through its Authorized Signatory Santosh Kumar, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District Bhojpur (Ara), Through its authorised signatory Santosh Kumar, Aged about 42 years (Male), Son of Late Nageshwar Prasad, Resident of Village - 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District - West Champaran.

... .. Petiti

Versus

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025
7/102

1. The State of Bihar, Through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna.

Bihar

3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Bhojpur. Bihar
5. The Officer In Charge, Barahara Police Station, Bhojpur. Bihar
6. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
7. The Assistant Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
8. The District Magistrate cum Collector, Bhojpur Bihar
9. The Mines Inspector, District Mining Office, Bhojpur. Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 497 of 2022

Arising Out of PS. Case No.-302 Year-2021 Thana- DIGHWARA District- Saran

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised Signatory Santosh Kumar, aged about 42 Yeras (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla- 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran

... .. Petition

Versus

1. The State of Bihar through Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Saran Chapra Bihar
5. The officer In Charge, Digwara Police Station, Saran, Chapra Bihar
6. The Principal Secretary, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan Bailey Road, Patna, Bihar
7. The Assistant Director, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
8. The District Magistrate Cum Collector, Saran Bihar
9. The Mines Inspector, District Mining Officer, Saran Bihar

... .. Respondent/s

=====

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

8/102

with

Criminal Writ Jurisdiction Case No. 500 of 2022

Arising Out of PS. Case No.-456 Year-2021 Thana- KOILWAR District- Bhojpur

=====

Broad Son Commodities Private Limited, through its authorised signatory Santosh Kumar, Son of Late Nageshwar Prasad, a company incorporated

under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District Bhojpur (Ara), Resident of Village/mohalla 100, Pipra Pakadi P.O. Pipra Pakadi, P.S. - Bettiah Mufassil, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Bhojpur. Bihar
5. The officer In Charge, Koilwar Police Station, Bhojpur. Bihar
6. The Principal Secretary, Mines and Geology Deptt., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
7. The Assistant Director, Mines and Geology Deptt., Government of Bihar, Vikas Bhawan, Bailey Road Patna, Bihar.
8. The District Magistrate Cum Collector, Bhojpur. Bihar
9. The Mines Inspector, District Mining office, Bhojpur. Bihar.

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 505 of 2022

Arising Out of PS. Case No.-261 Year-2021 Thana- AWTARNAGAR District- Saran

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised Signatory Santosh Kumar, aged about 42 Yeras (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla- 100, Pipra Pakadi, P.O.- Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran

... .. Petition

Versus

1. The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar
 2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar
- Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025
9/102

3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Saran Chapra Bihar
5. The officer in Charge, Autar Nagar Police Station, Saran, Chapra Bihar
6. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
7. The Assistant Director, Mines and Geology Department, Govt. of Bihar Vikas Bhawan Bailey Road, Patna, Bihar

8. The District Magistrate Cum Collector, Saran Bihar
9. The Mines Inspector, District Mining Office, Saran Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 508 of 2022

Arising Out of PS. Case No.-464 Year-2021 Thana- CHAPRA MUFFASIL District- Sara

=====

Broad Son Commodities Private Limited through its authorised signatory santosh Kumar A company incorporated under the provisions of the Companies Act, 1956 having having its registered office at Dr. Himanshu Compex, Block Road, Koilwar Chouk, P.S.- Koilwar, District Bhojpur (Ara), through its authorised Singatory Santosh Kumar, aged about 42 years (male), Son of Late Nageshwar Prasad, resident of Village/ Mohalla 100, Pipra Pakadi, P.O. Pipra Pakadi, P.S.- Bettiah Mufasil, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Government of Bihar Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Saran Chapra. Bihar
5. The Officer in charge, Mufassil Police Station, Saran, Chapra. Bihar
6. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan Bailey Road, Patna.
7. The Assistant Director, Mines and Geology Department Government of Bihar. Vikas Bhawan, Bailey Road, Patna.
8. The District Magistrate Cum Collector, Saran. Bihar
9. The Mines Inspector, District Mining Office, Saran. Bihar

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 516 of 2022

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

10/102

Arising Out of PS. Case No.-181 Year-2021 Thana- RANIYATALAB District- Patna

=====

Broad Son Commodities Private Limited, through its Authorised Signatory Santosh Kumar, Son of Late Nageshwar Prasad, a company incorporated under the provisions of the companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District - Bhojpur (Ara). Resident of Village/Mohalla 100, Pipra Pakadi, P.O. Pipra Pakadi, P.S.- Bettiah Mufassil, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home Government of Bihar, Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Patna. Bihar
5. The officer In Charge, Rani Talab Police Station, Patna. Bihar
6. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar.
7. The Assistant Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar.
8. The District Magistrate cum Collector, Patna. Bihar
9. The Mines Inspector, District Mining office, Patna. Bihar

... ... Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 545 of 2022
Arising Out of PS. Case No.-209 Year-2021 Thana- SAHAR District- Bhojpur

=====

Broad Son Commodities Private Limited, a Company incorporated under the provisions of Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its authorised signatory Santosh Kumar, aged about 42 years (Male), S/o Late Nageshwar Prasad, R/o Village/Mohalla 100, Pipra Pakadi, P.O.- Pipra pakadi, P.S.- Bettiah Mufassil, District- West Champaran

... ... Petition

Versus

1. The State of Bihar through Principal Secretary, Home Govt. of Bihar, Old Secretariat, Patna Bihar
 2. The principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar
 3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
- Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

11/102

4. the Superintendent of Police, Bhojpur Bihar
5. The Officer In Charge, Sahar Police Station, Bhojpur Bihar
6. The Principal Secretary, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
7. The Assistant Director, Mines and Geology Department, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna, Bihar
8. The District Magistrate Cum Collector, Bhojpur Bihar
9. The Mines Inspector, District Mining Office, Bhojpur Bihar

... ... Respondent/s

=====

Appearance :

(In Criminal Writ Jurisdiction Case No. 387 of 2022 and its analogous cases)

For the Petitioners : Mr. Suraj Samdarshi, Advocate
Mr. Avinash Shekhar, Advocate
Mr. Vijay Shankar Tiwari, Advocate
Ms. Abhilasha Jha, Advocate
Ms. Simran Kumari, Advocate
For the ED : Mr. Zohaib Hossain, Spl.counsel
Mr. Manoj Kr. Singh, Spl.PP
Mr. Prabhat Kumar Singh, Spl.PP
Mr. Pranjal Tripathi, JC.to Mr.Hossain.
For the Respondent-State: Mr. P.K. Verma, AAG-III
Dr. Mankeshwar Tiwari, AC to AAG-III
Mr. Gyan Prakash Ojha, GA-VII
For the Mines Department: Mr. Naresh Dikshit, Spl. P.P.
Mr. Kumar Harshvardhan, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT

Date : 16-05-2025

Heard Mr. Suraj Samdarshi, learned counsel
appearing for the petitioners, Mr. Gyan Prakash Ojha,
learned G.A.-VII for the State, Mr. Naresh Dikshit, learned
counsel appearing for the Department of Mining and Mr.
Zohaib Hossain, learned special counsel appearing for the
Union of India/E.D.

2. The petitioners of respective writ petitions have
Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

12/102

prayed for following reliefs:

- (i) Cr.W.J.C. No.387 of 2022 (i) To issue an appropriate writ, order or direction
nature of certiorari for quashing Bihta P. S. Case No. 387 of 2021 registered on 17.09.2021 for alleged offence under Sections 379 and 411 of the Indian Penal Code Rule 39 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 on the ground that the same is completely illegal and without any authority of law.
(ii) To issue further appropriate writ, order or direction the nature of mandamus commanding the respondents 1. Set not to take any coercive steps against the petitioners.

pursuance of Bihta P.S. Case No. 689 of 2021.

(iii) The Hon'ble Court may adjudicate and hold that cognizable offence is made out against the petitioner per the contents of First Information report and the the petitioner cannot be subjected to criminal prose

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damage caused to the petitioner.

(v) To grant/award any other relief or reliefs which petitioner may be found entitled to in the facts and circumstances of the case.

(ii) Cr.W.J.C. No.
396 of 2021

(i) To issue an appropriate writ, order or direction nature of certiorari for quashing Ranitalab P.S. Case No. 260 of 2020 registered on 30.11.2020 against the petitioner for alleged offences under section 379 and the Indian Penal Code, and Rule 11, 29 (C) and 56 of Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 on the ground that the same is completely illegal and without any authority of law.

ii) To issue further appropriate writ, order or direction the nature of mandamus commanding the Respondents to Set not to take any coercive steps against the Petitioner pursuant of Ranitalab P.S. Case No. 260 of 2020.

iii) This Hon'ble Court may adjudicate and hold that cognizable offence is made out against the Petitioner per the contents of the First Information Report and the the Petitioner cannot be subjected to criminal prosecution

iv) To award the cost of litigation and suitable

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025
13/102

compensation to the petitioner for the loss and damage caused to the petitioner.

v) To grant/ award any other relief or reliefs which Petitioner may be found entitled to in the facts and circumstances of the case.

(iii) Cr.W.J.C. No.501
of 2021

(i) To issue an appropriate writ, order or direction nature of certiorari for quashing Bihta P.S. Case No. 2020 registered on 03.12.2020 against the petitioner for alleged offences under section 379 of the Indian Penal Code; Rule 11, 29 (C) and 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 and section 22 of the Mines and Mineral (Development and Regulation) Act 1957 on the ground that the same is completely illegal and without

authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Bihta P.S. Case No. 864 of 2020.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of the First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(iv) Cr.W.J.C.No.388 of 2022

(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Sandesh P.S. Case No. 179/2021 registered on 18.09.2021 under section 378/379/411

of Indian Penal Code and Rule 39(3) and 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 (erroneously mentioned in the FIR as Bihar Minerals Amendment Rules 2021) on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Sandesh P.S. Case No. 179/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution. Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(v) CrWJC. No.401 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Chandi P.S. Case No. 183 / 2021 dated 18.09.2021 registered under section 379 of Indian Penal Code, Rule 39 (3) / 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 (erroneously mentioned in the FIR as Bihar

Mineral (Concession Prevention of Illegal Mining, Transportation and Storage) Act 2021) and section 15 Environment (Protection) Act 1986 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Chandi P.S. Case No. 183 / 2021

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(vi) CrWJC No.404 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Dehri Nagar (Indrapuri OP) P.S. Case No. 1018 of 2020 on 29.12.2020 for alleged offences under section 379/406/ 420 of the Indian Penal Code; Section 15 of the Environment Protection Act and section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 and Rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules 2019 (erroneously mentioned as BMCC Rules 2019) on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Dehri Nagar (Indrapuri OP) P.S. Case No. 1018 of 2020.

(iii) This Hon'ble Court may adjudicate and hold that no Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(vii) CrWJC No.413 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Imadpur P.S. Case No. 115 / 2021 dated 23.09.2021 registered under section 379 IPC and 1,12, 13, 15/39 (3) and 56 of Rule Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation and Storage) Amendment Rules 2021 and Environment Protection Act,

1986 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1 Set not to take any coercive steps against the Petitioner in pursuance of Imadpur P.S. Case No. 115/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(viii) CrWJC No.462 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Paliganj P.S Case No. 335 / 2021 registered on 16.09.2021 under section 378/379/411 of IPC and Rule 39(3)/56 of the Bihar Mineral (Concession, Prevention of illegal mining, transportation & Storage) Rules 2019 (erroneously mentioned in the FIR as BMCC Rules 2021).on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Paliganj P.S Case No. 335 / 2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(ix) CrWJC No.465 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Doriganj P.S. Case No. 247 of 2021 registered on 18.09.2021 for alleged offences under section 379, 411 and 420 of the Indian Penal Code and Rule 39(3) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of

Doriganj P.S. Case No. 247 of 2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(x) CrWJC No.481 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Barahara P.S. case no.

540/2021 dated 18.09.2021 registered under section 379 IPC and Rule 39 (3)/2021 Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Barahara P.S. case no. 540/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(xi) CrWJC No.497 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Digwara P.S. Case No. 302 /2021 registered on 16.09.2021 registered under section 379/420 of IPC and Rule 39(3) of the Bihar Mineral (Concession, Prevention of illegal Mining, Transportation & Storage) Rules 2019 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1x Set not to take any coercive steps against the Petitioner in pursuance of Digwara P.S. Case No. 302/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(xii) CrWJC No.500 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Koilwar P.S. Case No. 456 / 2021 dated 18.09.2021 registered under 378/379/411 Indian Penal Code and Rule 39(3) /56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Amendment Rules, 2019 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Koilwar P.S. Case No. 456/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/award any other relief or reliefs which the Petitioner may be found entitled to in the facts and Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 circumstances of the case.

(xiii) CrWJC No.505 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Autar Nagar P.S Case No. 261 /2021 registered on 16.09.2021 under section 188/420/379 IPC Rule 39(3) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Autar Nagar P.S Case No. 261/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(xiv) CrWJC No.508 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Mufassil P.S Case no.

464 / 2021 registered on 18.09.2021 under section 411/379 of IPC and Rule 39(3) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Mufassil P.S Case no. 464/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(xv) CrWJC No.516 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Ranitalab P.S. Case No. 181/2021 registered on 17.09.2021 under section 378/379/411 IPC and Rule 39 (3) and 56 the Bihar Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Mineral (Concession, Prevention of illegal mining, transportation & Storage) Rules 2019 (erroneously mentioned in the FIR as Bihar Mining Concession Prevention of Illegal mining and Transportation and Storage Rules 2021) on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Ranitalab P.S. Case No. 181/2021

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

(xvi) CrWJC No.545 of (i) To issue an appropriate writ, order or direction in the 2022 nature of certiorari for quashing Sahar P.S. Case No. 209/2021 registered on 19.09.2021 under section 379 of Indian Penal Code and Rule 39(3) and 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Amendment Rules, 2021 on the ground that the same is completely illegal and without any authority of law.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents 1 Set not to take any coercive steps against the Petitioner in pursuance of Sahar P.S. Case No. 209/2021.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out against the Petitioner as per the contents of First Information Report and therefore the Petitioner cannot be subjected to criminal prosecution.

(iv) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.

(v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

3. Before adjudicating these matters, it would be Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 appropriate to point out the legal backgrounds of these matters.

4. After hearing these matters in detail, the learned co-ordinate Bench of this Court reserved the judgment on 28.09.2022 but, before the pronouncement of judgment, on 02.11.2022, the Court came across its earlier judgment in the case of M/s Broad Son Commodities Pvt. Ltd. vs. The State of Bihar and Ors. reported in 2018(4) PLJR 706 and judgment of the Hon'ble Supreme Court in the case of Jayant and Ors. vs. State of Madhya Pradesh reported in (2021) 2 SCC 670, State of Delhi (NCT) vs. Sanjay reported in (2014) 9 SCC 772 which have bearing upon the adjudication process and, therefore, learned counsel for the parties were given opportunity to address the Court in reference to the judgments as noted hereinabove.

5. On 04.11.2022, the learned Single Judge reiterated its earlier view, in view of the judgment of Hon'ble Supreme Court in the case of Sanjay (supra) and Jayant (supra), that no fault may be found with lodging of the F.I.Rs. in these cases and investigation into these cases need Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 not be interfered with at this stage. Learned co-ordinate Bench expressed it's inability to agree with the views expressed by the another learned co-ordinate Bench of this Court in the case of Mithilesh Kumar Singh vs. State of Bihar and Anr. (Cr.W.J.C. No.

540 of 2019) and also in Cr.W.J.C. No.1233 of 2021 (Aditya Multicom Private Ltd. Vs. The State of Bihar & Ors.) disposed on 07.04.2022.

6. To make the diversified opinion of the Court consistent with the law and the judicial pronouncements of the Hon'ble Supreme Court on the subject, the learned co- ordinate Bench of this Court referred these matters to the Division Bench on the following issues:-

(i) Whether Section 22 of the MMDR Act of 1957 read with Rule 56 of the Rules of 2019 may be interpreted so as to read a bar on lodging of the FIR alleging commission of offences of theft etc. under the provisions of the Indian Penal Code against a licensee in the matter of excavation of sand from the river beds from an area beyond or contrary to the mining plan and in violation of the Environment Clearance, on the face of Clause (v) under sub-rule(7) of Rule 56 and the judgments of the Hon'ble Supreme Court in Sanjay and Jayant's case.

(ii) Whether the alleged thieving sale of sand Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 from the stock license point without issuing pre-

paid E-Challan and thereby causing huge revenue loss to the State Exchequer and unlawful gain to the petitioners may be subjected to an investigation by Police by way of a police case registered for the offences under Sections 379, 411, 406 and 420 IPC ?

(iii) Whether the judgments of the learned co- ordinate Benches in the case of Mithilesh Kumar Singh (supra) and M/s Aditya Multicom Pvt. Limited vs. The State of Bihar & Ors. (Cr.W.J.C. no. 1233 of 2021) are per incurium for not noticing the earlier judgment of a Bench of equal strength, hence not laying down a correct statement of law?

7. After hearing the learned counsel for the parties, the Division Bench of this Court vide order dated 09.02.2024 answered the aforesaid reference in para-26 in the following manner:-

"26. We accordingly, answer the questions referred to us, as under:

(i) In the matter of excavation of sand from the river beds from an area beyond or contrary to the mining plan and in violation of the Environment Clearance, FIR alleging commission of offences as of theft etc. under the provisions of the IPC can be filed against a licensee and bar under section 22 of the MMDR Act, 1957 read with Rule 56 of Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 the Rules of 2019 would not be attracted.

(ii) For the alleged thieving sale of sand from the stock license point without issuing prepaid E-challan and causing huge revenue loss to the State Exchequer and unlawful gain to the petitioners, FIR can be lodged for the offences punishable under sections 379, 411, 406, 420 I.P.C. and it is open for the Investigating Officer to investigate the same.

(iii) The judgments of the learned Single Judge rendered in the case of Mithilesh Kumar Singh (supra) and M/s Aditya Multicom Pvt. Limited vs. The State of Bihar & Ors. (Cr.W.J.C. no. 1233 of 2021) can be said to be per incurium as the earlier decision rendered in the case of Broad Son Commodities Pvt. Ltd. (supra) rendered by another learned Single Judge was not cited and considered."

8. After the Division Bench answered the reference, the matters were specially assigned to this Court for hearing.

9. Now, the only question which is required to be adjudicated whether in given fact and circumstances FIR's as lodged against petitioners as discussed aforesaid constitute any prima facie case for the offences punishable under Sections 379, 406, 411, 420 of the IPC and for the violation of rules of Bihar Minerals (Concession, Prevention of Illegal Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Mining, Transportation and Storage Rules,2019) as alleged.

10. By order dated 20.02.2025, the Court impleaded Enforcement Directorate as one of the party-respondent, expressing its view that the interest of Enforcement Directorate (in short 'ED') must be protected, in view of submission that the ratio of Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors. reported in 2022 SCC Online SC 929, is only the guiding legal note available to the Court as far as case of PMLA Act is concerned, and, therefore, the Enforcement Directorate must at least be given an opportunity of hearing by impleading as a party- respondent. It is also submitted that the opportunity of hearing shall not in any way prejudice the petitioners, rather any such denial shall prejudice the Enforcement Directorate, which in broader sense appears essential to unveil the truth of the present crime (schedule offences) which is calyx of corruption and as such against the national socio-economic interest, upon which case of PMLA, 2002 against petitioners are founded.

FIRs relating to the petitioner Broad Son Commodities Private Limited Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Case No. FIR Allegations Cr.W.J.C. No. 501 of 2021 Bihta P.S. Case No. 864 It is alleged that in course of of 2020 registered under spot inspection when the Ge-co-Section 22 of the MMDR ordinate of the excavated area of Act 1957, Rules 11, Chilka Tola Sandghat was 29 (c), 56 of the Bihar taken, it was found that the Mineral (Concession, excavation of sand were done Prevention of Illegal outside the E.C. Area. The Mining, Transportation & Inspecting Team took Storage) Rules 2019 measurement of the excavated ditches and found that 56,500 CFT of sand had been done outside the E.C. Area and thereby revenue loss of Rs.

16,53,045/- has been caused to the Government Exchequer.

Cr.W.J.C. No. 387 of 2022 Bihta P.S. Case No. 689 In course of Inspection of the of 2021 registered under Stock at the five K-License Sections 379, 411 IPC places difference of 431950 CFT read with Rules 39(3) and sand between the stock and the 56 of the Bihar Mineral P.M.U. Report was found, it was (Concession, Prevention noticed that the license holder of Illegal Mining, has sold sand without issuing Transportation & Storage) prepaid E- Challan. It is alleged Rules 2019 that the license holder has sold the sand stealthily and the Register in form -J were not found duly filled up. At the

all places the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs.

1,73,94,607/- to the Government exchequer.

Cr.W.J.C. No.396 of 2021 Ranitalab P.S. Case No. It is alleged that mining outside 260 of 2020 registered on the prescribed limits is a 30.11.2020 against the violation of the terms and petitioner for alleged conditions of the approval offences under section granted by SEIAA/and mining 379 and 34 of the Indian plan and also Rule 11 and 29(c) Penal Code, and Rule 11, of the 2019 Rules and is 29 (C) and 56 of Bihar punishable under Rule 56. It is Minerals (Concession, alleged that the State Govt. has Prevention of Illegal suffered a loss of Rs. Mining, Transportation & 17,47,260/-.

Storage) Rules, 2019 Cr.W.J.C. No. 388 of 2022 Sandesh P.S. Case No. In course of Inspection of the 179 of 2021 registered Stock at two K-License places under Sections 378, 379, difference of 20590 CFT sand was 411 IPC read with found between the physical Rules verification and the P.M.U. Report. 39(3), 56 of the Bihar It was noticed that there is differe Mineral (Concession, the license holder has sold sand Prevention of Illegal without issuing prepaid E-Challan. Mining, Transportation & It is alleged that the license holder Storage) Rules 2019 has sold the sand stealthily and the Register in form -J were not found duly filled up. At the all places the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs. 08,23,600/- to the Government exchequer.

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Cr.W.J.C. No. 401 of 2022 Chandi P.S. Case No. 183 In course of Inspection of the of 2021 registered under Stock at the K-License place section 379 IPC read with difference of 13500 CFT sand was Rules 39(3), 56 of the found between the physical Bihar Mineral verification and the P.M.U. Report. (Concessions, Prevention It was noticed that the license of Illegal Mining, holder has sold sand without Transportation & Storage) issuing prepaid E-Challan. It is Rules 2019 and 15 of alleged that the license holder has Environment Protection sold the sand stealthily and the Act. Register in form -J were not found duly filled up. At the all places the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs. 05,40,000/- to the Government exchequer.

Cr.W.J.C. No. 404 of 2022 Dehri Nagar (Indrapuri It is alleged that during course of OP) P.S. Case No. 1018 inspection the local people on the of 2020 on 29.12.2020 for condition of confidentiality alleged offences under disclosed that the ghat operator section 379/406/ 420 of Bhola Yadav is engaged in illegal the Indian Penal Code; mining during night. It is further Section 15 of the alleged that according to the Environment Protection direction of the DM, Rohtas as Act and section 21 of the contained in Memo NO. 2185 Mines and Minerals dated 23.12.2020 mining operation (Development and was suspended for violation of the Regulation) Act, 1957 terms and conditions of the tender.

and Rule 56 of Bihar
Minerals (Concession,
Prevention of Illegal

Mining, Transportation
and Storage) Rules 2019

Cr.W.J.C. No. 413 of 2022 Imadpur P.S. Case No. In course of Inspection of the 115 of 2021 registered Stock at two K-License places under section 379 difference of 295350 CFT sand IPC read with Rules 1, between physical and P.M.U. 12,13, 15, 39(3) and 56 of Report was found. It was noticed the Bihar Mineral that the license holder has sold (Concessions, Prevention sand without issuing prepaid E- of Illegal Mining, Challan. It is alleged that the Transportation & Storage) license holder has sold the sand Rules 2019 stealthily and the Register in form -J were not found duly filled up. At the all places the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs. 01,18,14,000/-

to the Government exchequer.

Cr.W.J.C. No. 462 of 2022 Paliganj P.S. Case No. In course of Inspection of the 335 of 2021 registered Stock at the K-License place under sections 378, difference between the stock and 379/411 IPC read with P.M.U Report was found. it was Rules 39(3), 56 of the noticed that the license holder has Bihar Mineral sold sand without issuing prepaid (Concessions, Prevention E-Challan. It is alleged that the of Illegal Mining, license holder has sold the sand Transportation & Storage) stealthily and the Register in Rules 2019 form-J were not found duly filled up. At the place the signboard containing name, description of land, license number and the rate of sand were not written. The extent of revenue loss caused to Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 the Government exchequer has not been mentioned.

Cr.W.J.C. No. 465 of 2022 Doriganj P.S. Case No. In course of Inspection of the 247 of 2021 registered Stock on the five K-License under sections 379/411, places it was found that the stocks 420 IPC read with Rules were much less than mentioned 39(3) of the Bihar stock in the report of the P.M.U., Mineral (Concessions, hence allegation is that the license Prevention of Illegal holder has sold sand without Mining, Transportation & issuing prepaid E-Challan. It is Storage) Rules 2019 alleged that the license holder has sold the sand stealthily and the Register in form -J were not found duly filled up. At the all places the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of (i) Rs.

7,78,38,614/-,(ii) Rs.10,26,10,683/-,

(iii) 15,42,37,116/-, (iv) 01,06,03,495/-, (v) 01,54,61,475/-,

(vi) 01,71,49,073/- to the Government exchequer.

Cr.W.J.C. No. 481 of 2022 Barhara P.S. Case No. In course of Inspection of the 540 of 2021 registered Stock at the K-License place under section 379 IPC difference of 55950 CFT sand read with Rules 39(3), 56 was found between the stock of the Bihar Mineral and P.M.U. Report. It was (Concessions, Prevention noticed that the license holder of Illegal Mining, has sold sand without issuing Transportation & Storage) prepaid E- Challan. It is alleged Rules 2019 that the license holder has sold the sand stealthily and the Register in form -J were not found duly filled up. At the

place the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs.

22,38,000/- to the Government exchequer.

Cr.W.J.C. No. 497 of 2022 Dighwara P.S. Case No. In course of Inspection of the 302 of 2021 registered Stock at the K-License place it under sections 379, 420 was noticed that out of two IPC read with Rules license places, at K-7/21 place 39(3) of the Bihar 61915 CFT sand were more than Mineral (Concession, the quantity mentioned in the Prevention of Illegal report of PMU which allegedly Mining, Transportation & show that the license holder has Storage) Rules 2019 illegally extracted the sand and at one place (K-12/21 the quantity was less showing that the license holder had sold the sand without issuing prepaid E-

Challan. It is alleged that the license holder has sold the sand stealthily and the Register in form

-J were not found duly filled up.

At the place the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs.

26,41,913/- and
respectively to the G
exchequer.

Cr.W.J.C. No. 500 of 2022 Koilwar P.S. Case No. In this case altogether seven K- Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 456 of 2021 registered license spots are involved. In under sections 378, 379, course of Inspection of the Stock 411 IPC read with Rules at the K-License places sand was 39(3) and 56 of the Bihar found much less at different sites Mineral (Concession, which show that the license holder Prevention of Illegal has sold sand without issuing Mining, Transportation & prepaid E-Challan. It is alleged Storage) Rules 2019 that the license holder has sold the sand stealthily and the Register in form -J were not found duly filled up. At the place the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs.

13,36,70,320/- to the Government exchequer.

Cr.W.J.C. No. 505 of 2021 Awtar Nagar P.S. Case In this case altogether three K-

No. 261 of 2021 license spots were inspected. In registered under sections course of Inspection of the Stock 188, 420, 379 IPC read at the two K-License places sand with Rules 39(3) of the was found much less at different Bihar Mineral sites which show that the license (Concessions, Prevention holder has sold sand of Illegal Mining, without issuing prepaid E-Challan. Transportation & Storage) Further at third place the same was Rules 2019 found more than the report provided in the P.M.U. Report which shows that illegal mining has been done. It is alleged that the license holder has sold the sand stealthily and the Register in form

-J were not found duly filled up. At the place the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs. 3,30,49,195/-, Rs. 01,10,43,423/- and 03,72,96,525/- respectively to the Government exchequer.

Cr.W.J.C. No. 508 of 2022 Muffasil P.S. Case No. In this case in course of Inspection 464 of 2021 registered of the Stock at the K-License place under sections 379, 411 sand was found much less as shown IPC read with Rules in the report of PMU which shows 39(3) of the Bihar that the license holder has sold sand Mineral (Concessions, without issuing prepaid E-Challan. Prevention of Illegal It is alleged that the license holder Mining, Transportation & has sold the sand stealthily and the Storage) Rules 2019 Register in form -J were not found duly filled up. At the place the signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs. 2,37,07,452/- to the Government exchequer.

Cr.W.J.C. No. 516 of 2022 Rani Talab P.S. Case No. In this case altogether eighteen K-

181 of 2021 registered license spots were inspected. In under sections 378, 379, course of Inspection of the Stock 411 IPC read with Rules at the K-License places, sand was 39(3), 56 of the Bihar found much less at different sites Mineral (Concessions, which shows that the license Prevention of Illegal holder has sold sand without Mining, Transportation & issuing prepaid E-Challan. It is Storage) Rules 2019 alleged that the license holder has sold the sand stealthily and the Register in form -J were not found duly filled up. At the place the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 signboard containing name, description of land, license number and the rate of sand were not written. This has caused revenue loss of Rs. 07,48,88,106/- to the Government exchequer.

Cr.W.J.C. No. 545 of 2022 Sahar P.S. Case No. 209 In this case two K-license spots of 2021 registered under were inspected. In course of section 379 IPC read Inspection of the Stock at the with Rules 39(3), 56 of K-License places sand was found the Bihar Mineral much less at different sites which (Concession, Prevention of shows that the license holder as sold Illegal Mining, sand without issuing prepared E- Transporation and Storage) challan. It is alleged that the license Rules, 2019 holder has sold the sand stealthily and the Register in Form-J were not found duly filled up. At the place the signboard containing name, description of land, license number and the rate of sand were not written.

This has caused revenue loss of Rs.

93,60,000/- to the Government Exchequer.

11. At the outset, it is important to mention that core allegations as set out through different FIRs are mostly same, therefore, the pleadings made in Cr.W.J.C. No.501 of 2021 pertaining to Bihta P.S. Case No.864 of 2020 registered in the district of Patna is being referred and considered as to discuss the factual aspects of these cases.

12. It is submitted by Mr. Suraj Samdarshi, learned counsel appearing for petitioners that in furtherance of auction conducted in the year 2014, settlement was created in favour of petitioners of

the entire district of Patna, Bhojpur and Saran as one unit. The aforesaid settlement was for a period of five years i.e. from 2015 to 2019. After completion of aforesaid period of five years, the settlement of petitioner Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 was extended from 01.01.2020 till 31.10.2020 at first instance. Thereafter, the settlement was again extended from 01.11.2020 till 31.12.2020 at second instance, whereafter the another and third extension was given from 01.01.2021 till 31.03.2021 and finally the fourth and last extension was given to settlee/petitioners from 01.04.2021 till 30.09.2021. It is pointed out that the basic allegations as raised through different FIRs was that the sand was illegally excavated outside the permitted area for which the government has suffered a loss on account of such act. The allegation raised against the settlee i.e. Broad Son Commodities Private Limited and its employees.

13. Mr. Samdarshi submitted that the entire FIR is based on mere presumptions as on its facial perusal, no offence qua theft appears prima facie made out against petitioner's company and its employees. There is no specific allegation of any wrong doing against petitioners. It is submitted that on the basis of presumption, as some pits were found adjacent to petitioners leased area, therefore, same was alleged to be illegally excavated by the petitioners Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 for which petitioner cannot be said liable merely because his presence was lawful in furtherance of settlement as submitted above. It is submitted that this is not a case where the respondents caught red-handed any representative of petitioners involving or indulging in illegal excavation outside leased area. No incriminating articles like Pokelanes, JCBs, Trucks etc. belonging to the petitioners has been found or seized from the place of alleged occurrence. It is also pointed out that the compliance of Rule 59(2) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 and also Section 100 (4) and 100(5) of the Code of Criminal Procedure, 1973 (in short 'CrPC') regarding search and seizure also does not appear to be followed, which further makes entire allegation doubtful on its face. The FIRs in issue failed to disclose that same was lodged in furtherance of any inspection report, even alleged inspections qua two sites were not made in presence of any independent witnesses. Therefore, in absence of any inspection report, the allegations qua illegal mining beyond permitted area is just an allegation motivated otherwise. Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

14. Mr. Samdarshi further submitted that Geo co- ordinates has been prescribed by the environmental authorities in the environmental clearance certificate issued by the State Environment Impact Assessment Authority (in short 'SEIAA'), which clearly stipulates that the prosecution if any be initiated only in terms of provisions available under Environmental Protection Act, 1986. In this context, it is submitted that environment clearance for "Chilka tola" sand ghat has been granted by the State Environment Impact Assessment Authority (SEIAA) vide Letter No.439 dated 23.12.2016 (Annexure-9 to 1st Supplementary affidavit).

15. Mr. Samdarshi further submitted that the settlement created in favour of the petitioners as per Rule 11(A) of the Bihar Minor Mineral Concession Rules, 1972, was covering entire districts, which suggests on its face that although the mining plan or environmental clearance could be of a smaller area but, the mineral potential even lying outside the environmental clearance area is not the property of the State during the period of settlement. As such, even Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 extraction beyond the excavation clearance area for the settlement

made for the entire district, at best, it can be taken as breach of the terms of environmental clearance and same cannot be treated as illegal mining.

16. It is further submitted that the petitioner paid entire royalty for the district of Patna, where environmental clearance capping for "Chilka tola" sand ghat was 8,77,504/- tonnes per annum, which was never exhausted by the petitioner and, therefore, if it is assumed that 96,500 CFT (3860 MT) sand has been excavated by petitioner, it cannot be said that any violation of environmental clearance was made, as same is well within the capping limit and also cannot be said to cause any revenue loss to the respondents. It is submitted that with this allegation also, it is not a case of theft of sand.

17. Explaining further, it is submitted by Mr. Samdarshi that even if it is assumed that petitioners conducted mining of sand outside the permissible area, the same at maximum is the case of excess mining for which petitioner is liable to pay additional liability in light of Clause Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 5 of Appendix 2 of the New Sand Policy, Appendix 2 Clause 6(vii) of notification no.2887 dated 22.07.2014, Clause 11(xv) of work orders for calendar year 2015, Clause 22 Part III of agreement of the calendar year 2015 and Rule 29(B)3((ii) and Rule 51(7) of 2019 Rules. Even Rule 56(3) of the 2019 Rules suggest that for any unauthorized mining, the government is liable to recover royalty only.

18. It is further submitted that the petitioners have settled the entire stretch of river passing through the district for which the auction amount was paid in terms of Rule 26(1)9b) and Schedule II of the 1972 Rules. It is pointed out that according to sand policy, 2013 and Bihar Minor Mineral Concession Rules, 1972, the petitioner was required to prepare a mining plan and submit the same to the State Government for approval. On the basis of the mining plan, the petitioner was granted the environmental clearance by SEIAA, which prescribed the particular area from which petitioner could excavate the sand. This demarcation was on the basis of mineral potential of the river at a particular place. If the mineral potential of a particular ghat got diminished Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 due to several factors like monsoon, excess rain etc., the petitioner was entitled to get a revised new mining plan approved and obtained new environmental clearance for new area and, therefore, the mining plan for district Patna was revised and new environmental clearance was granted for 13 new sand ghats. The approval of revised new mining plan contained in Letter No.16 dated 02.01.2019 (Annexure-12 series/second Supplementary affidavit).

19. It is submitted that in aforesaid factual circumstances, if there is any breach, then the same is covered by Rule 30 and Rule 47 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

20. In this context it is also submitted that even though if any excavation was done outside the permitted environmental clearance area, the Collector is authorized to impose a penalty upon the petitioner in terms of Rule 30 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019. It was also opened for Collector to suspend or cancel the settlement under Rule Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 47 of Bihar

Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019. However, no such action was taken and straightway the present criminal prosecution in bunch was lodged against the petitioners.

21. It is pointed out that Rule 30 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 also applied in case of violation of Rule 29(C), which provides that the settlee observe the terms and condition of mining plan as well as the terms and conditions of the environmental clearance.

22. While concluding argument, it is submitted by Mr. Samdarshi that admittedly when petitioner could not carry out work due to financial hardships, they surrendered their license of settlement with Government whereafter, the entire ghats admittedly came in possession of the concerned police stations/respondent (Mining Department). It is pointed out that no allegation for any illegal mining was raised for five years but the moment the petitioners surrendered the license due to financial hardships, the series of FIRs for theft were lodged against petitioners admittedly, when the sand in issue Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 was not in possession of petitioners, therefore, no offence as alleged qua theft, cheating or breach of trust prima facie appears made out and, therefore, importing the ratio of State of Haryana vs. Bhajan Lal since reported in 1992 Supp (1) SCC 335, present FIRs are liable to be quashed/set aside.

23. It is further submitted by Mr. Samdarshi that whenever an accused approached the court of law for quashing the FIR or any criminal proceedings arising therefrom, such proceedings were manifestly attended frivolous or vexatious or otherwise instituted with ulterior or oblique motive for wrecking vengeance then, in such circumstances the court must look into the FIR with care and a little more closely and it will not just be enough for the court to look into the allegation made in the FIR/complaint alone as to whether the necessary legal ingredients qua alleged offences are disclosed or not. It is submitted that in case of frivolous or vexatious proceedings, the court must look other attending circumstances emerging from the record of the case over and above and if need be with due care and Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 circumspection, try to read in between the lines. In support of his submissions, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through Salib @ Shalu @ Salim vs. State of U.P. and Ors. since reported in 2023 SCC Online SC 947.

24. It is further submitted by Mr. Samdarshi that being a law abiding citizens, apprehending the situations, petitioners approached this Hon'ble Court through Cr.W.J.C. No.6890 of 2019 reported in 2019 (4) PLJR 246 seeking a direction upon the authorities to stop illegal mining and transportation of sand, wherein the Hon'ble Court observed that illegal mining required remedial measures immediately. The Hon'ble High Court issued certain directions thereof, primarily regarding establishment of check posts to check illegal mining and deployment of police personnel along with the authorized representatives of the settlee of the district, to identify the challans, on the basis of which, transportation was being done but even thereafter, the illegal mining was continued, which was one of the reasons for causing financial loss to petitioners, compelling him to Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 surrender license in 2021. It is submitted that petitioner took all possible legal steps to check illegal mining including intimation to the police and

the officials, assisting the administration in putting up check post to prevent illegal transposition of sand and lodging of FIR's against illegal miners. Some of the FIR's lodged by the petitioners are annexed with Cr.W.J.C. No. 387/2022 vide Annexure

-26 Series in 4th Supplementary Affidavit.

25. In this context, it is further submitted that illegal mining becomes frequent practice during Covid-19 and, therefore, the petitioners being bona fide settlee suffered loss. The petitioners further suffered a loss due to Covid-19 related slow down and also on account of prohibition of four wheeler trucks to transport sand. For aforesaid reasons, continuation of mining activity became unviable and, therefore, the petitioner vide Letter dated 26.04.2021 surrender its settlement of sand ghats in the district of Patna, Bhojpur and Saran with effect from 01.05.2021.

26. It is pointed out that after surrender of the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 settlement, the generation of E challan on the mining department's portal was suspended/blocked from 01.05.2021. Importantly, the generation of e- transit challans were not only stopped for the secondary loading sand ghats, but also for K- license sites. It is also pointed out that being a law abiding citizens, the petitioners vide letter dated 10.06.2021 (Annexure-7 in Cr.W.J.C. 387/2022) submitted a representation to Assistant Director, District Mining Office, Patna, vide letter dated 09.06.2021 (Annexure-7 in Cr.W.J.C in 388/2022) submitted a representation to the Assistant Director, District Mining Office, Bhojpur and vide letter dated 10.06.2021 (Annexure- 9 in Cr.W.J.C No. 465 /2022) submitted a representation to the Mines Inspector, District Mining Office, Saran requesting that a physical verification of the stock at K-license sites be conducted and petitioner be allowed to sell sand therefrom.

27. It is pointed out that despite aforesaid request, no physical verification was conducted and the petitioner was not allowed to sell the sand stock at the K- license sites. It is further submitted that the sand stocked at the K-license sites Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 was being misappropriated by antisocial elements for which the petitioner filed informatory petition before the C.J.M. Patna on 11.06.2021 (Annexure 8 in Cr.W.J.C. No. 387/2022). In Bhojpur, such informatory petition was filed on 21.06.2021 (Annexure 8 to Cr.W.J.C. No. 388/2022). In Saran such informatory petition was filed on 09.06.2021 (Annexure 8 to Cr. W.J.C. No. 465/2022).

28. It is further submitted that being law abiding citizens, the petitioners filed monthly returns for K-license sites in accordance with Rule 46 (2). According to the returns filed for the month of May 2021, a total of 80,82,250 CFT sand was available at the K-License sites in Patna as per Annexure-9 to the writ application. Similarly, for Bhojpur, a total of 44,82,250 CFT sand was available at the K License sites. (Annexure 9 Cr.W.J.C No. 388/2022). Similarly, in Saran a total of 1,81,76,650 CFT sand was available (Annexure 11 at Page no. 90 in Cr.W.J.C No. 465/2022).

29. It is further submitted by Mr. Samdarshi that in aforesaid development, Director, Mining Department on 10.07.2021 issued a notice in the Hindi Daily newspaper Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 "Dainik Bhaskar" (Annexure-10 in Cr.W.J.C. 387/2022) in which general public was informed about the availability of sand with K-license holders in various districts

of Bihar and were directed to approach such K-license holders directly for purchase of sand. In the District of Patna, the total quantum of sand available at K-license sites were mentioned as 86,98,550 CFT, which was more than the total quantum of sand as per the monthly returns. In the District of Bhojpur the total quantum of sand available at the K license sites was mentioned as 45,22,475 CFT, which was more than total quantum of sand as per the monthly returns. In the District of Saran the total quantum of sand available at the K license sites was mentioned as 1,86,25,325 CFT which was again more than the total quantum of sand as per the monthly returns. Thus, there was no shortage of sand as on 10.07.2021.

30. It is pointed out that all of a sudden, vide Letter No. 261 dated 07.07.2021 issued by the Deputy Director, Mining Department, 34 K-licenses of Patna were cancelled. Vide Letter No. 264 dated 08.07.2021 issued by the Deputy Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Director, Mining Department, 15 K-licenses of Bhojpur were cancelled. Vide Letter No. 1223 dated 24.07.2021 issued by the District Mining Officer, and in Saran district, 13 K- licenses were cancelled and the stocks lying over there was seized by the mining department. After cancellation of aforesaid K-licenses, the sand stocked at K-license sites was formally seized vide Letter No. 1557 dated 11.07.2021. In Bhojpur, the sand stocked at K-license sites was formally seized vide Letter No.3000 dated 12.07.2021. Consequent upon, after cancellation of the K-license sites and seizure of sand the petitioner lost control and possession over the sand which was stocked at the K-license sites.

31. It is further submitted that after seizure sands at K License sites the department of mines had handed over the sand to the local police stations and revenue authorities for care and protection in terms of Letter No. 3007 dated 15.07.2021 (Annexure 24 of the 3rd Supplementary Affidavit in Cr.W.J.C 387/2022), letter no. 1557 dated 11.07.2021 (Annexure-25 of the 3rd Supplementary Affidavit in Cr.W.J.C. 387/2022) which was marked to Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 the police stations and the circle officers in Bhojpur and Patna respectively to ensure that the seized sand be kept securely.

32. Mr. Samdarshi further submitted that the all sand at K License sites was royalty paid, therefore, the Collector, Patna issued Letter No. 1592 dated 14.07.2021 (Annexure 12 to Cr.W.J.C No. 387/2022), whereby the surrender of the settlement of sand ghats in Patna by petitioner was accepted and the earlier demand of Rs. 80,48,58,604/- for the remainder of the settlement period was reduced by the cost of 1,29,56,870 CFT sand (at the at the rate of Rs. 4027 per 100 cubic feet) seized from the secondary loading area and the K-license sites and issued a fresh demand for Rs. 28,30,85,450/-, which is the approval of the fact that the K license sites and secondary loading areas was royalty paid, otherwise there was no occasion for adjustment.

33. It is further submitted that the Mining Department after seizing all sands and after cancellation of K-license of petitioners started to sell the sand from the month of July, which is evident from Letter No. 614 dated Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 04.09.2021 (Annexure-13 to Cr.W.J.C. No. 387/2022) whereby the authorities were directed by the Director, Mining Department to expedite the sale of seized sand, whereby the quantum of sand seized at K license sites on 02.09.2021 in Patna was shown to be 80,78,650 CFT, quantum of sand at K-license sites at Bhojpur was shown to be 45,09,675 CFT and quantum of sand at K license sites in Saran was

shown to be 1,80,48,625 CFT. It is submitted that the quantum of sand mentioned in Letter No. 2614 dated 04.09.2021 was almost equal to the quantum mentioned in the monthly returns filed by petitioners.

34. It is submitted that in view of aforesaid, it is evident that no theft was committed from the authorized sites in favour of settlees/petitioners and also of sand, which was in possession of petitioners at different K-license sites and secondary sites. It is pointed out that all of a sudden in 3rd week of September, all the aforementioned FIRs were registered against the petitioners suddenly alleging huge misappropriation of sand within a short span of 10-15 days. It is submitted that when admittedly the aforesaid documents, Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 which is of an unimpeachable character of sterling quality suggest that the sand alleged as stolen was not from possession petitioners, lodging of FIRs against petitioners for the offence of theft prima facie not made out and it is out of ulterior and oblique motive.

35. In support of aforesaid submissions, Mr. Samdarshi further submitted that the sand stocked at "K"

-license site was royalty paid and same was also established by the information received by petitioners under RTI from mining department in which they have admitted that the sand stocked at K-license site is royalty paid, which is apparent from Letter No. 1996 dated 18.08.2021 (Annexure-19 to Cr.W.J.C. No. 387/2022) in which it has been accepted that petitioner has paid advance royalty and has filed return till May 2021. It has also been accepted that sand is transported after capping is provided. The mining department through Letter No. 3598 dated 18.08.2023, as annexed as Annexure- 23 Series (2nd Supplementary Affidavit in Cr.W.J.C. No. 387/2022) categorically said that no additional royalty is payable if sand is transported from K-license site on a valid e- Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 challan. It has been clarified that sand is transported from sand ghat to K-license site on the basis of e-challans. It is further pointed out that Letter No. 3596 dated 18.08.2023 wherein it has been accepted by Mining Department that if sand stocked being stolen from the K- license sites, it would amount to loss to the company.

36. It is submitted that FIRs were lodged mainly with allegation that during course of inspection, sand stocked at K-license sites was found to be less than PMU Data, which is not a correct position, for the reason that petitioners surrendered the settlement from 01.05.2021 and, therefore, the generation of K-license was stopped from same date. However, the FIR has been lodged in September after a delay of more than four months, where admittedly the police and Mining Department seized and took the possession of K license sites from the month of July, 2021 onward. It is also pointed out that out of thirteen FIRs only in two FIRs i.e. Bihta P.S. Case No. 689 of 2021 (Cr.W.J.C No. 387/2022) and Rani Talab P.S. Case No. 181 of 2021 (Cr.W.J.C. No. 516/2022), the date of alleged inspection has been stated, Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 whereas in other FIRs the date of inspection also not appears to be available, making the entire events doubtful and unfounded.

37. In view of aforesaid, the allegation raised through different FIRs are completely false and appears raised maliciously in order to compel the petitioner to pay the royalty for the surrendered

period.

38. Beside aforesaid, it is submitted that the State of Bihar has also registered certificate cases against the petitioners under the Bihar and Orissa Public Demand Recovery Act, 1914 seeking to recover the cost of sand alleged to have been misappropriated from the K-license sites. It is therefore, submitted that the respondents have admitted that the alleged liability of the petitioner is civil in nature.

39. While concluding argument, Mr. Samdarshi submitted that considering all such aspects, this Court through Cr. Misc. No. 8423 of 2023 granted anticipatory bail to CEO of Aditya Multicom Private Limited, wherein the Hon'ble Court, vide order dated 18.05.2023, has recorded Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 the stand of the Director, Mines that stock was handed over to the local police for providing security and that steps were taken to sell the sand through Bihar State Mining Corporation. It was also recorded that learned counsel of mines and Director of Mining Department has stated that there may be a situation in which even the persons who were given the responsibility to keep the stocks secured may be involved in the occurrence.

40. It is also submitted that no offence under Section 411 of the IPC is made out against the petitioners, as there is no allegation in the FIRs that petitioners received any stolen property at any point of time, where as per Section 420 of IPC is concerned, it is submitted that the FIRs on its face, nowhere reveals or contains any averments, which may suggest that petitioners cheated with fraudulent intention from very inception particularly, in the background when admittedly the petitioners were settlees since 2015 and for long six years, no any such allegations were raised.

41. In support of his aforesaid submissions, the learned counsel has relied upon the legal report of Hon'ble Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Supreme Court as available through Anil Mahajan vs. Bhor Industries Ltd. and Anr. since reported in (2005) 10 SCC 228, Indian Oil Corporation vs. NERC India Limited and Ors. since reported in (2006) 6 SCC 736 and also in Vinod Natesan vs. State of Kerala and Ors. since reported in (2019) 2 SCC 401. The learned counsel also relied upon the legal report of State of Orissa vs. Debendra Nath Padhi since reported in AIR 2005 SC 359 and HMT Watches vs. M.A. Abida and Anr since reported in (2015) 11 SCC 776.

ARGUMENT ON BEHALF OF DEPARTMENT OF MINES (RESPONDENT Nos. 6 to 9):

42. It is submitted by Mr. Naresh Dikshit, learned Spl.P.P. appearing for the Department of Mines and aforesaid respondents that the documents introduced by way of different Annexures by the petitioners to show their innocence was neither the part of FIRs nor the part of charge-sheet, as in that view of matter, those documents/annexures cannot be looked into in present proceeding under Sections 226 and 227 of the Constitution of India, as those documents can only be introduced as Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 evidences and same be viewed during trial only. It is pointed out that the writ court cannot assume the duty of the trial court. It is submitted that in view of the reference answered by Hon'ble Division Bench of this Court through Cr.W.J.C. No.299 of 2022, it is clear that FIR is

maintainable in the cases. Therefore, this Court can only see as to whether the allegations made in the FIR make out any prima facie case as alleged or not. It is submitted that the Hon'ble Single Judge of this Court in Cr.W.J.C. No.1919 of 2017 and 10 of 2018 preferred by the petitioner already dismissed that no case is made out to quash the FIR. It is further submitted that Hon'ble Supreme Court in the matter of State of Bihar vs. P.P. Sharma since reported in AIR 1991 Sc 1260 observed that the Hon'ble Court under circumstances would not have assumed jurisdiction put and end to the process of investigation and trial provided under the law.

43. It is submitted that in view of aforesaid, the writ petitions are devoid of any merit and, therefore, same be dismissed.

ARGUMENT ADVANCED ON BEHALF OF
DEPARTMENT OF ENFORCEMENT (ED) :

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

44. This Court has impleaded the Department of Enforcement as a party respondent for hearing in present case to avoid any prejudice to the Department vide its order dated 20.02.2025.

45. Upon so.

46. Mr. Zohaib Hossain, learned special counsel appearing for the Department of Enforcement submitted that the FIRs were lodged for the offences punishable under Sections 420, 406, 379 of the IPC and for the violation of Rule 40 Bihar Minor Mineral Concession Rules, 1972 and Rule 3 of the Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules 2003. It is submitted that the offences alleged are scheduled offences under Prevention of Money Laundering Act, 2002 (in short 'PMLA Act').

47. At the outset, it is submitted by Mr. Zohaib Hossain that the submissions as raised as to lodge present FIRs appears violation of Article 21 of the Constitution of India qua petitioners cannot be accepted that mere lodging of FIR cannot be taken as an act of violation of fundamental right as available to a citizen contained in Article 21 of the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Constitution of India.

48. It is also submitted that the ratio of Bhajan Lal case (supra) and also Pepsi Food Ltd. (supra) cannot be said applicable to the present fact and circumstances. It is submitted that in Cr.W.J.C. No.10 of 2018, the petitioner is seeking quashing of the FIR. However, a perusal of the allegation mentioned in FIR shows that those are liable to be investigated and at this stage, this Court sitting in writ jurisdiction would not be justified in weighing the materials, which have been brought by the petitioners by way of annexures to the writ applications. The investigation in this case cannot be

interfered with facts and circumstances of the case, stated hereinabove. In result this Court:-

"26. In Cr. W.J.C. No. 10 of 2018, the petitioner is seeking quashing of the FIR. However, a perusal of the allegations mentioned in the FIR shows that those are liable to be investigated and at this stage this Court sitting in its writ jurisdiction would not be justified in weighing the materials which have been brought by the petitioner by way of Annexures to the writ applications and the rejoinder. The investigation in the case cannot be interfered with in the facts and circumstances of the case stated hereinabove.

27. In result, this Court does not find any reason to Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 interfere with the impugned orders and the FIRs which are subject matter of challenge in both the writ applications. These writ applications with interlocutory application are, therefore, dismissed."

49. It is also submitted that while disposing aforesaid writ petition, the reliance was made on State of Delhi (NCT) vs. Sanjay since reported in (2014) 9 SCC

772. It is submitted that the judgment dated 05.10.2018 passed by Hon'ble Mr. Justice Rajeev Ranjan Prasad in Cr.W.J.C. No.1910 of 2017 and Cr.W.J.C. No.10 of 2018, as aforesaid, was challenged before Hon'ble Supreme Court in SLP (Crl.) No. 10602 and 10596 of 2018, which was dismissed as withdrawn.

50. It is further submitted by Mr. Hossain that while dealing with Cr.W.J.C. No. 540 of 2019 in connection with Sigaudi P.S. Case No.2 of 2018, Cr.W.J.C. No. 676 of 2019 in connection with Bhagwanganj P.S. Case No.2 of 2018, Cr.W.J.C. No. 693 of 2019 in connection with Dhanarua P.S. Case No.7 of 2018 and Cr.W.J.C. No.718 of 2019 in connection with Naubatpur P.S. Case No.718 of 2019, where FIRs were lodged under Sections 420, 406, 379 read with 34 Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 of IPC along with Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 (for short 'MMDR Act'), Rules 40, 21 and 22 of the Bihar Minor Minerals Concession Rules, 1972 (for short '1972 Rules') and Section 15 of the Environment (Protection) Act, 1986 (for short '1968 Act'), were quashed by one of the learned coordinate Bench presided by Hon'ble Mr. Justice Ashwani Kumar Singh.

51. In this context, it is submitted that while hearing aforesaid matters, the earlier judgment dated 05.10.2018 passed in Cr.W.J.C. No. 1910 of 2017 and SLP order dated 05.10.2018 was not brought to the knowledge of the Court, as it seems from the order whereas counsel was same.

52. It is further submitted by Mr. Hossain that Cr.W.J.C. No.1233 of 2021 in connection with Dehri Town P.S. Case No.407 of 2021 registered under Sections 379, 411, 420 and 409 of the IPC and Rule 39(2), 39(3) and 56(2) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 was filed before Hon'ble Patna High Court and vide order dated Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 07.04.2022, the Hon'ble Patna

High Court quashed the aforesaid FIR relying upon the judgment of Mithilesh Kumar Singh i.e. order dated 26.08.2019.

53. In this context, it is further pointed out that Cr.W.J.C. No.299 of 2022 in connection with Barun P.S. Case No.318 of 2021 registered for the offences under Sections 379, 411, 420 IPC read with Rules 11, 39 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 was filed before this Court and Hon'ble Mr. Justice Rajeev Ranjan Prasad observed as follows:-

"51. At this stage, this Court is of the considered opinion that the submission advanced on behalf of the petitioners saying that because these petitioners are the licencees, therefore in their cases allegation of theft, transfer of stolen property, criminal breach of trust or cheating would not lie are liable to be rejected. If a licensee, in the garb of having license indulges in dishonestly mining from the river beds by causing large and dip pits beyond the E.C. Permitted area and thereby engage in excavation, extraction, removal and selling of the minor minerals, his act would, prima-facie, subject to investigation, fall in the category of theft and criminal breach of trust....

X X X

63... It is difficult to appreciate as to why the earlier Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 judgment of this Court was not cited even as the petitioner was the same and one learned Senior Counsel who was leading him before the learned Co- ordinate Bench was aware of the judgment of this Court which was in fact challenged before the Hon'ble Supreme Court where also the same learned Senior Counsel had represented the petitioners. At the same time, learned counsel for the State as well as the Department of Mines did not place the earlier judgment before the learned co- ordinate Bench...."

54. Therefore, the matter was referred before the Hon'ble Chief Justice for further reference to a Division Bench, which has settled the difference of opinions of the single Judge benches of the Hon'ble High Court.

55. Thereafter, this case was taken up on hearing by the Hon'ble Division Bench of the High Court on 09.02.2024, which held as under:-

"25. Thus, in view of the aforesaid, we are of the view that the decision rendered in the case of Mithilesh Kumar Singh (supra) and M/s Aditya Multicom Private Limited (supra) can be said to be per incurium."

56. Thereafter, on 07.10.2024, a single Judge bench led by Hon'ble Mr. Justice Arvind Singh Chandel passed an order in M/s Aditya Multicom vs. The State of Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Bihar Cr.W.J.C. No. 1597 of 2024 in connection with Dehri Town P.S.

Case No 115 of 2024 dated 13.02.2024 registered for the offence punishable under Sections 379 and 420 of the IPC which was registered on the basis of information shared by the Directorate of Enforcement and quashed the FIR without taking into consideration the above- mentioned decision of Hon'ble Division Bench of this Court dated 09.02.2024.

57. Despite observation of this Court, as the information was shared by ED, the department was not impleaded as party so that department could apprise the Hon'ble Court in respect of the money laundering angle involved in the entire case.

58. It is submitted by Mr. Hossain that this is a case of illegal mining beyond the permissible limit or beyond territory of settlement/mining without a mineral concession. It is pointed out that excess mining will not absolve the settlees from criminal liability. It is submitted that even after the settlement the ownership of natural resources lies with the State. It is pointed out that the petitioner caused a loss of Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Rs. 210.68 crores (Rupees Two Hundred Ten Crores Sixty-eight Lakhs) to the State due to illegal mining. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through Reliance Natural Resources Ltd. Vs. Reliance Industries Ltd. [(2010) 7 SCC 1].

58.1. Mr. Hossain further submitted that for purpose of Section 411 IPC, property obtained through criminal breach of trust is included within the definition of "stolen property" under section 410 of IPC and, therefore, squarely falls within the ambit of Section 411 IPC. In this regard, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through Mir Nagvi Askari Vs. CBI [(2009) 15 SCC 643].

58.2. In support of his submission, learned counsel relied upon the legal reports of Hon'ble Supreme Court as available through Lalita Kumari Vs. Government of Uttar Pradesh [(2014) 2 SCC 1]; SBI Vs. Rajesh Agarwal [(2023) 6 SCC 1; Anju Chaudhary Vs. State of U.P. [(2013) 6 SCC 384]; Monica Bedi Vs. State of A.P. Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 [(2011) 1 SCC 248]; Ishwarlal Girdharilal Parekh Vs. State of Maharashtra [AIR 1969 453-457 SC 40]; Union of India Vs. Venkateshan S. [(2002) 5 SCC 285; Rajeev Kaurav Vs. Baisahab [(2020) 3 SCC 317 and Swaran Singh Vs. State [(2008) 8 SCC 435.

59. Concluding argument, Mr. Hossain submitted that the documents annexed with writ petitions cannot be viewed at this stage and, therefore, there is no occasion to quash the present FIRs as it may affect the proceedings of department in PMLA case in view of ratio as settled by Hon'ble Supreme Court in Vijay Madan Lal case (supra).

COUNTER ARGUMENT TO THE AFORESAID SUBMISSIONS BY PETITIONERS:

60. Taking a contrary note of aforesaid submissions as raised by Department of Mines and Department of Enforcement, it is submitted by Mr. Samdarshi that both these departments projected these cases as of illegal mining. It is pointed out that illegal mining means mining beyond the permissible limit or beyond territory of settlement or mining without concession. It is submitted that in none of these FIRs aforesaid allegation was raised against petitioners. It is Patna High Court

CR. WJC No.387 of 2022 dt.16-05-2025 pointed out that the Department of Enforcement has stated that in Chandi P.S. Case No.183 of 2021 and Awtarnagar P.S. Case No.261 of 2021 there is allegation of excess mining. It is submitted that Chandi P.S. Case No.183 of 2021 is under challenge in Cr.W.J.C. No.401 of 2022 and Awtar Nagar P.S. Case No.261 of 2021 is under challenge in Cr.W.J.C. No.505 of 2022, where in both FIRs, there is no allegation qua excess mining. It is pointed out that as ED raised the ownership of sand that was never with petitioners is not justifiable. Agreeing with the submission of Department of Enforcement, it is submitted by Mr. Samdarshi that there cannot be any dispute with respect to the proposition that ownership of natural resources lies with the State. However, once the State after obtaining royalty and other taxes, settles a particular area and permits excavation of minor minerals the same is guided by the Rules framed under Section 15, 23C and 26 of the MMDR Act. Since the 2019 Rules provides a mechanism for payment of royalty in advance and for excess extraction there is a specific rule that is Rule 51(7) of 2019 Rules, suggest excess dispatch cannot be alleged Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 against the settlee in view of Rule 29(F) which mandate that the electronic weight bridges have to be integrated with the central server and it is only after verification of quantum of sand, through the weight bridges, the E-challan is generated and such quantity is reduced from the total permissible limit allotted to the petitioner. Neither there is any case of excess mining against the petitioner as per the department of Mines, nor there is any demand in relation to excess excavation in terms of Rule 51(7).

61. While concluding argument, it is pointed out that both these departments are silent to their argument that how the present FIRs made out any prima-facie case for the offence alleged under section 420, 379, 406 of the IPC.

62. It is submitted that mere lodging of FIRs which are not otherwise disclosing any offence cannot force petitioners to face the trauma of criminal trial. It is pointed out that the documents annexed with writ petitions are such an impeachable quality of sterling nature that departments are not in a position to deny and, therefore, same can be read at this stage in view of Devendra Nath Padhi case Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 (supra). This Court has wide power to deal with all such documents to secure the ends of justice and to save the petitioners from facing criminal trial, which apparently appears unoccasioned in view of submission as advanced hereinabove.

CONCLUSION:-

63. It would be apposite to reproduce the FIR of Bihta P. S. Case No - 447/21 dt. 03.07.2021 in Cr. WJC No 387 of 2022 for sake of convenience:-

lsok esa] Fkkuk/;{k] fcgVk FkkukA fo"k;%& izkFkfedh ntZ djus ds laca/k esaA egk"k;] mi;qZDr fo'k; ds laca/k esa dguk gS fd vkids FkkukUrxZr fuxZr vuqKflr ykbZlsal ;Fkk K-19/2021, K-44/2021 ,oa K-52/2021 ds irk dze"k% 1- ekStk & vkuanij] ekStk uao&36] iz[k.M&fcgVk] Fkkuk&fcgVk] ftyk&iVuk] [kkrk lao& 466] [ksljk lao& 269 2- ekStk& dVs"kj] ekstk uao& 39] iz[k.M&fcgVk] Fkkuk&fcgVk] ftyk&iVuk] [kkrk lao& 163] [ksljk lao& 411 ,oa 3- ekStk&nsodqyh] ekStk uao& 55]

iz[k.M&fcgV] Fkkuk&fcgV] ftyk&iVuk] [kkrk lao&58] [kslj la&24 ds LFkyksa ij miyC/k ckyw dh ek=k dk HkkSfrd LR;kiu fnukad 27-06-2021 dks le; 11- 00 AM ls 3-00 PM rd [kku fujh{kd vktkn vkye] Jh vat; dkekj ,oa Jh vfer dkekj ds lkFk fd;k x;kA HkkSfrd LR;kiu ds nkSjku mDr vuqKfIr LFkyksa ij ckyw dh ek=k "kwU; ik;k x;k tefd PMU }kjk miyC/k dj;k;s x;s izfrosnu ds vuqlkj mDr LFkyksa ij dze" k% 1/41 1/2- 87450 ? kuQhV] 1/42 1/2 24450 ?kVQhV ,oa 1/43 1/2 298600 ?kuQhV ckyw dk Hk.Mkj.k gSA mDr ls Li'V gksrk gS fd vuqKfIr/kkjH ds dfeZ;ksa@lapkydksa }kjk fcuk Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 izhizM bZ&psyku fuxZr fd;s pksjh ls ckyw dk fodz; dj fn;k x;k gSA lkFk gh fdLH Hkh O;fDr }kjk izi= ^t^t^t esa la/kkfjr iath dk HkkSfrd LR;kiu ds dze esa izLrqr ugha fd;k x;kA lHkh vuqKfIr LFkyksa ij lkbZu cksMZ flj vuqKfIr/kkjH dk uke] irk] [kkrk&[kslj] ekStk] vuqKfIr la[;k ,oa ckyw dk fodz; ewY; vknH vafdr ugha ik;k x;k rFkk Hk.Mkfjr ckyw LFkyksa dk fencing ,oa Hk.Mkfjr ckyw dks rkjksfyu ls <dk gqvH ugha ik;k x;kA mDr d`r dk;Z vuqKfIr ds dafMdk 1] 12] 13] ,oa 15 dk mYya?ku gS rFkk fegkj [kfut 1/4lekuqnku] voS/k [kuu] ifjogu ,oa Hk.Mkj.k fuokj.k 1/2 fu;ekoyh 2019 ds fu;e 39 1/43 1/2 ds rgr n.Muh; gSA K-vuqKfIr la[;k 19@2021 ds ckor 43]82]500@& #0] K- vuqKfIr la[;k 44@2021 ds ckor 12]32]500@& #0 ,oa vuqKfIr la[;k 52@2021 ds ckor 1]49]40]000@& #0 ljdkjH jktLo dh {kfr gqbZ gS] tks olwyuh; gSA vr% vuqjks/k gS fd vuqKfIr/kkjH ds izkf/kd`r dfeZ;ksa @ lapkydksa ds fo:) mijksDr of.kZr fu;e rFkk IPC ds fu;e 378] 379] 411] 420 ,oa IPC ds vU; lqlaxr /kkjvkksa ds rgr izkFkfedh ntZ djus dh d`ik djsaxsaA 1/4eso czkWMLu dkWeksfMVht izko fyo }kjk izkf/kd`r dfeZ;ksa @ O;fDr;ksa dh lwph vuqKfIrokj layXu 1/2A fo"oklHkktu go@& vLi'V jktsUnz dkekj flag [kku fujh{kd ftyk [kuu dk;kZy;] iVuka

64. It would be further apposite to reproduce the FIR of Chandi P. S. Case No.183/21 dt. 18.09.2021 in Cr.W.J.C. No. 401 of 2022 for the sake of convenience, which is as under:-

ftyk [kuu dk;kZy;] Hkkstiqj] vkjk i=kad&3484 lsok esa] Fkkuk/;{k] pkanH Fkkuk] HkkstiqjA fo'k;%& y?kq [kfut Hk.Mkj.k vuqKfIr LFkyksa ij PMU }kjk miyC/k dj;k;s x;s Hk.Mkfjr ckyw dh ek=k ,oa LFkyh; fujh{k.k esa ik;s x;s ckyw dk varj ds vkyksd esa izkFkfedh ntZ djus ds laca/k esaA Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 izlax%& foHkkxh; i=kad&2614@,e-] fnukad&04-09-2021 ,oa lekgj.kky; 1/4[kuu "kk[kk 1/2 dk i=kad&3000@[kuu] fnukad&12-07-2021 egk"k;] mi;qZDr fo'k; ds laca/k esa dguk gS fd voS/k [kuu] ifjogu ,oa Hk.Mkj.k ds fo:) foHkkxh; funs"kkuqlkj vkids FkkukUrxZr Hkkstiqj ftyk }kjk fuxZr vuqKfIr ykbZlsal dk HkkSfrd LR;kiu djus ds i"pkr ,oa PMU ls izkIr K&vuqKfIr;ksa ij Hk.Mkfjr ckyw dh ek=k esa varj ik;k x;kA vuqKfIr la[;k ij ik;s x, Hk.Mkfjr ckyw dh ek=k dk varj ftlij izkFkfedh ntZ dh tkuh gS bl izdkj gS%& S. Licence Police License Khata Khesra No. Area PMU }kjk HkkSfrd FIR for No. Address Station No. No. miyC/k LR;kiu difference ek=k dh ek=k in Quantity 01 Mauza- Chandi K-12/21 526 1134 33 106.500 120000 13500 cft.

Koilar

HkkSfrd lR;kiu Jh jathr dqekj] RkRdkyhu [kku fujh{kd }kjk fd;k x;k gSA mDr ls Li'V gksrk gS fd vuqKfIr/kkjh }kjk feuk izhisM bZ&pkkyku fuxZr fd;s pksjh ls ckyw dk fodz; dj fn;k x;k gSA lkFk gh fdllh Hkh O;fDr }kjk izi= ^t^ esa la/kkfjr iath dk HkkSfrd lR;kiu ds dze esa izLrqr ugha fd;k x;kA lHkh vuqKfIr LFkyksa ij lkbZu cksMZ ftlij vuqKfIr/kkjh dk uke] irk] [kkrr&[kslj] ekStk] vuqKfIr la[;k ,oa ckyw dk fodz; ewY; vknh vafdr ugha I;k x;kA mijksDr of.kZr lHkh o1 K&vuqKfIr LFkyksa esa Hk.Mkfjr ckyw dh ek=k esa ik, x, varj dk ek=k 13500 ?kuQhV gksrk gS] ftlds dkj.k :-540000@&ljdkjh jktLo dh Nfr gqbZ gS] tks olwyuh; gSA mDr d`r dk;Z vuqKfIr ds dafMdk 1]12]13 ,oa 15 dk mYya?ku gS rFkk fcgkj [kfut ¼lekuqnku] voS/k [kuu] ifjogu ,oa Hk.Mkj.k fuokj.k½ ¼la"kkSF/kr½ fu;ekoyh 2021 ds fu;e 39¼43½ ,oa 56 ds rgr~ n.Muh; gSA vr% vuqjks/k gS fd vuqKfIr/kkjh esllZ czkWMLu dkWeksfMVht izk- fy- ds funs"kd eaMy ,oa voS/k izs"k.k esa lafyIr O;fDr;ksa ds fo:) mijksDr of.kZr fu;e rFkk IPC ds fu;e 378] 379] 411 ,oa IPC ds vU; lqlaxr /kkjvkksa ds rgr~ izkFkfedh ntZ djus dh d`ik dh tk;s rkfd voS/k [kuu] ifjogu ,oa Hk.Mkj.k ds lkFk&lkFk jktLo dh {kfr dks jksdk tk ldsA fo"oklHkktu Registered Chandi PS Case No.183/21 dated 18.9.21 go&17-9-21 U/s 379 IPC & Bihar Minerals (Concession Prevention vuqi f=ikBh Illegal Mining transportation & Storage) Act 2021 U/s ¼[kku fujh{kd½ 39(3)/56 and 15 EP. Act, S.I. Raja Ram Prasad will firK&Lo- enu eksu f=ikBh Please investigate this case. xzko&odqykjh] Fkk-&xqBuh] ftyk&flok] fcgkj ekso 9661701005

65. It would be further apposite to reproduce a notice issued by Mining Department on 10.07.2021 in the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Hindi Daily newspaper Dainik Bhaskar (Annexure-10 in Cr.W.J.C. 387/2022) in which general public was informed about the availability of sand with K-license holders in various districts of Bihar, which is as under:-

fcgkj ljdkj [kku ,oa HkwrRo foHkkx vko";d lwpuk vke tu@V^akaliksVZjksa@dk;Z laosndksa dks lwfpr fd;k tkrk gS fd fcgkj jkT;kUrxZr fofHkUu ftyksa esa ckyw ds izi= 'K' Hk.Mkj.k vuqKfIr/kkfj;ksa ds ikl izpqj ek=k esa ckyw miyC/k gSA vuqjks/k gS fd lqfo/kkuqlkj vius ftyk@fudVorhZ ftyk ds Hk.Mkj.k vuqKfIr/kkfj;ksa ls lEidZ dj ckyw izkIr dj ldrs gSaA bl laca/k esa fdllh Hkh izdkj ds dfBukbZ gksus ij lacaf/kr ftyk [kuu dk;kZy; ds izHkkjh inkf/kdkjh ls lEidZ fd;k tk ldrk gSA fooj.kh fuEuor~ gS%& ftyk izi= 'K' Hk.Mkj.k Dqy Hk.Mkfjr ckyw dh lEidZ inkf/kdkjh dk uke@eksckbZy vuqKfIr dh la[;k ek=k (cft) lao vjoy 12 4084733-25 Jh izeksn dqekj@8051999728 vkSjaxckn 15 29286925 Jh iadt dqekj@7294805905 ckWadk 24 33236831 Jh v[kykd gqLSu@99737886110 csxwljk; 04 217800 Jh misUnz ikloku@9431551802 Hkkxyiqj 06 40650 Jh v[kykd gqLSu@99737886110 Hkkstiqj 19 4522475 Jh vkuan izdk"K@7549125357 teqbZ 08 90750 Jh fuf/k Hkkjrh@9852903038 Tkkgukckn 07 325025 Jh v:.k dqekj pkS/kjh@9199618063 eqaxsj 01 500 Jh xksiky lkg@9431678029 ukyUnk 05 1098076 Jh eqds"K dqekj@9955328191 uoknk 13 4381150 Jh eqds"K dqekj@9955328191 iVuk 64 8698550 Jh lqjsUnz izlkn

flUgk@9431289921 jksgrkl 17 57584000 Jh lat; dqekj@7903845475 Lkkj.k 25
18625325 Jh f"kopUnz izlkn@8789089502 "ks[kiqjk 01 2000 Jh mes"k
pkS/kjh@7366040300 oS"kkylh 04 1366950 Jh t; izdk" flag@8789724518 2-
mijksDr ds vfrfjDr jkT;kUrxZr 07 ftyksa ¼;Fkk& uoknk] ckadk] vjoy] fd"kuxat]
e/ksiqjk] oS"kkylh] cDlj½ ds oS| ckyw?kkV canksclr/kkfj;ksa }kjk unh ry ls 300 ehVj
dh nwjh ds vUnj lsdsamjh yksfMax lokbZaV ij Hkh ckyw dk i;kZIr Hk.Mkj.k fd;k x;k
gS] tgka ls vketu vko";drkuqlkj ckyw izkIr dj ldrs gSA fdlh Hkh izdkj dh vlqfo/kk
gksus ij vFkok vU; dksbZ lwpuk nsus ds fy, foHkkxh; fu;a=.k d{k ds nwjHkk'k la[p;k&
0612&2215350]2215351 ij lEidZ fd;k tk ldrk gSA ¼xksiky eh.kk½ funs"kd] [kku
PR.003426(mines)2021-22

66. It would be relevant to reproduce surrender of settlement to the Collector, Patna dated 26.04.2021, which Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 is as under:-

=kfgeke lans"k lsok esa] lekgrkZ egksn;] iVuk eSa v"kkSD dqekj funs"kd] czkWMLu
deksfMfVt izko fyo fgeka"qk dEiysD"k dksbZyoj] ckyw ds mBko esa vkus okys
leL;kvksa dk =kfgeke lans"k nsuk pkgrk gw iA esjh dEiuh ds i{k esa iapkax o'kZ
2015&2019 rd iVuk] Hkkstiqj ,oa lkj.k rhuksa ftys ds lEiw.kZ ckyw ?kkVksa dks ljdkj
ds }kjk canksclrh nh x;h FkhA canksclrh vof/k lekIr gksus ds mijUr ljdkj ds }kjk
iqu% foLrkj vof/k fnukad 01@04@2021 ls 30@09@2021 rd nh x;h gSA ckyw ds
mBko esa vkus okys leL;kvksa dk fcUnqokj ftØ dj jgk gwaA 1- ckyw ij voS/k mR[kuu
,oa iza'k.k ij jksd yxkus ds fy;s ekuuh; mPp U;k;ky; ds vkns"k ds vkyksd esa lekgrkZ
egksn; Hkkstiqj ds }kjk ccqjk esa ckil&cYyk jfgr vLFkkbZ psd ukdk yxkus dh vuqefr
iznku dh x;h gS] ijUrQ psd ukdk ij n.Mkf/kdkjh ;k iqfyl cy dh izfrfu;qfDr ugha dh x;hA
2- ftlds dkj.k ckyw ds voS/k iza'k.kdrkZ fucks/k feuk pyku psd dj;k;s tejnLrh psd ukdk
ls ikl djrs gSaA dEiuh ds deZpkjh ds }kjk tc budks jksdk tkrk gS] rks ;s voS/k ckyw ls
yns okguksa ds ikl djkus okys fxjsg ejus&ekjus ij mrk: gks tkrs gSA mDr ekjihV ds
Øe esa bu yxsxks ds }kjk iRFkjckth ,oa voS/k vkXus;kL=ksa ls xksfy;ka Hkh pykbZ
tkrh gS] ftlds pyrs iwoZ esa esjs nks deZpkfj;ksa dks xksyh yxh FkhA mDr dk.M dk
uketn izkFkfedh cM+gkj Fkkuk esa Hkh ntZ dj;k;h xbZ] ijUrQ vfHk;qDr vHkh Hkh
[kqysvke ckgj ?kwe jgs gSaA 3- vc rks izk;% izfrfnu voS/kdÙkkZvksa ds }kjk ccqjk]
Hkkstiqj psd ukdk ij iRFkjckth ,oa xksfy;ka pyrh jgrh gS] ftlds QyLo:i 8 vizSy 2021
dks djhc 10 cts jk=h esa iqu% iRFkjckth ,oa Qk;fax dh xbZ] ftlesa esjs LVkWQ dks
dej esa fiLVy dh xksyh yxhA 4- dy vFkkZr 11 vizSy 2021 iqu% voS/kdrkZ fxjsg ds
}kjk iRFkjckth dh xbZ ,oa ckyw yn voS/k xkM+h dks NqM+k;k x;k] blh Øe esa essjs
,d deZpkjh dks cM+k lk iRFkj lj esa yxk] ftls LFkkuh; vLirky esa ys tkus ij ekeyk dks
flfj;l crkrs gq, iVuk iho,eolho,po jsQj dj fn;k x;kA bu lkjh okjnrksa dh lwpuk lekgrkZ
Hkkstiqj] iqfyl v/kh{k d Hkkstiqj] ,loMhovkso Hkkstiqj] iz/kku lfpo] [kku ,oa
HkwRkRo foHkkx ,oa eq[; lfpo fegkj ljdkj dks Hkh i= ds ek/;e ls lwpuk nh xbZ gSA
ijUrQ ljdkj ds rjQ ls canksclrk/kkjh dks tM+k lh Hkh enn ugha fey ik jgh gSA urhtru
tekyiqj ls dksYygjkeiqj rd ,oa Qqgki lsejk ls ysdj fcanxkoki] cU/kqNijk] cyou Vksyk
gksrs gq;s unh ds fdukjs ls ccqjk iqy ds uhps voS/k Hk.Mkj.k dj 14 pDdk xkfM+;ksa
¼tks ljdkj ds }kjk izfrcf/kr fd;k x;k gS½ ij ykMdj voS/k ifjogu fd;k tkrk gSA buds

mij dksbZ vadq" k ugha gSA blesa iqfyl dh lafyIrk ls bUdkj ugha fd; k tk ldrk gSA vkt {ks= ds izk;% lHkh xkaoksa esa ¼izk;% dksbZyoj iqy ds mRrj½ voS/k ckyw dk vM~Mh [kqyk gqv k gSA tgki ij vlekftd rRoksa ds }kjk xkao ds uofugkyksa dks Hkh ckyw ds dkys /ka/ks esa lafyIrk fd; k tk jgk gSA bls budh ftanxh rks cjekn gks jgh gS] lekt dk vij/khdj.k Hkh rsth ls gks jgk gSA ;g rks vHkh dksbZyoj iqy ds mRrj dk Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Hk;kog n`"; is" k fd; k tk jgk gSA ,slh fodV fLFkfr esa dEiuh ds }kjk jkTLo laxzg.k ,d nq:g dk;Z gSA 5- dksbZyoj iqy ls mRrj tekyiqj ls ysdj ccqjk rd Ik;kZoj.k dh fLFkfr en ls enrj gks x;h gSA ;gka ds yksx LFkek ,oa nek ds jksxksa ls xzflr gks jgs gSAa cPpkas ds fy;s thuk eqf"dy gks jgk gS D;ksafd vkdk" k esa voS/k ifjpkYu ds pyrs vkdk" k /kwyd.k ls v{kkfnr jgk gSA bls fy;s dksbZ leL; k dk lek/kku ugha gSA dekses" k ;gh fLFkfr Qqgki ls ysdj lsejk] c/kq Nijk fcanxkoki] cyou Vksyk gksrs gq;s ccqjk iqy ds uhps rd cuk gqv k gSA bls ds ns[k&js[k djus okyks dksbZ ek; cki ugha gSA dksbZyoj iqy ds nf{k.k ,oa iVuk ftyk rFkk lkj.k ftys esa Hkh igystk] dyw?kkV] MkseokW ?kkV] ,yolhoVh ,oa xaxkty ?kkV bu le ?kkVksa ij rdjhcu ,d&Ms<+ lky ls dksbZ ifjogu pyku gh ugha dV k gSA ogka ds yksdy vkneh voS/k mR[kuu ,oa izs'k.k esa yxs jgrs gS dksbZ O;fDr ifjogu pyku dVkus ds fy, rS;kj ugha gksrk gSA ifjogu pyku dVkus ds fy;s dgus ij ejus ekjus ij mrk: gks tkrs gSA bl rjg ls jktLo laxzg.k ogka ij ugha gks ikrk gSA bls ljdkj ,oa dEiuh dks izfrnu yk[kksa :i;s dk {kfr gksrh gSA rFkk lkj.k ftyk vUrxZr ohj dqWoj flag iqy ds uhps Hkkjh ek=k esa voS/k ckyw dk izs'k.k fd; k tkrk gSA bl lEcU/k esa lkj.k ftyk ds MhovkbZoth lkgc] dfe" kuj egksn; k] Mho,e lkgc] ,oa ,loiho lkgc dks le;≤ ij i=] bZ&esy ,oa whatsapp ds ek;/e ls lwpuk nh tkrh jgh gS] ijUrq mijksDr dqd`R;ksa ij dHkh iwjh dkjokbZ ugha gqbZA vc rks ogki ls izfrcf/kr 14 pDdk V^{ad} ,oa ml ds mij Hkkj {kerk okys okguksa ij ckyw dh <qykbZ /kM+Yys ls dh tk jgh gSA dksbZ ns[kus okyk ugha gSA 5(b) ,slh gh fLFkfr dekses" k iVuk ftyk esa Hkh jkuhryk Fkkuk {ks=} fcgV k Fkkuk {ks=} fodze Fkkuk {ks=} ikyhxt Fkkuk {ks=} ,oa iquiqu unh {ks=} esa vusdksa txgks ij voS/k ckyw ds mR[kuu djus ds fy;s xksyhckjh gksrs jgrh gSA ckyw ds voS/kdrkZvksa ds dkj.k iqjk {ks=} v"kkar gSA 6- bls vykok iVuk ,oa Hkkstiqj nksuks ftys esa u;s 29 Modify ?kkVksa dk tks fd ljdkj ds }kjk Lohd`fr izkIr gS ,oa SIEEA ds }kjk Hkh Ik;kZoj.kh; Lohd`fr izkIr gSA fQj Hkh ljdkj ds }kjk mDr ?kkVksa dks [kksyus dh vuqefr ugha nh tk jgh gS] ftlls mu ?kkVksa esa jktLo ds laxzg.k Uggha gks ik jgh gSA bl ifjLFkfr esa dEiuh ljdkj dks =kfgeke lans" k nsrh gSA bl ifjLFkfr esa ljdkj ds rjQ ls vxj ;Fkksfpr enn ugha feysxh ftlesa fd %& ¼41½ fcgV k%& lekgrkZ egksn; ds vkns" k ds mijkUr Hkh bZekniqj Fkkuk {ks=} ds fcgV k ds ckal&cYyk jfgr psd ukdk dh LFkkiuk bZekniqj Fkkuk izHkkjh ds }kjk ugha djus nh tk jgh gSA ftlls Li'V gksrk gS fd ljdkj jkT;kns" k dks lklj mYya?ku gks jgk gSA 2- ldm~Mh 3-/kjgkj 4-cfgjks 5-csykmj caxyk esa psd ukdk nsus dk vkns" k] iqfyl cy ds mifLFkfr esa n.Mkf/kdkjh ds ns[k&js[k esa esjs dehZ ds }kjk pyku dh oS/krk dh tkap dh tk;sxh ,oa ccqjk psd ukdk ij l" kL= iqfyl cy dh izfrfu;qfDr ¼4x`g j{k d okfguh dks NksM+dj½ ,oa n.Mkf/kdkjh dh Hkh izfrfu;qDr vHkh rd ugha gks ik;h gSA QyLo:i voS/k mR[kuudrkZ ,oa izs'k.kdÜkkZ fuckZ/k voS/k ckyw dk izs'k.k dj jgs gSA vc rks ifjLFkfr ,slh mRiUu gks jgh gS fd geyksx dks Hkh vlekftd rRoksa ds } Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 kjk ?ksjk tk jgk gSA geyksx ds mij dHkh Hkh dksbZ vfiz; ?kVuk gks ldrh gSA bu lkjh O;oLFkvksa ds ugha jgus ij ljdkj jktLo dk laxzg.k vfr nq'dj gksxkA bl lanHkZ esa

dEiuh ljdkj dks voxr dj k nsuk pkgrh gS fd fdlh Hkh lqjrs gky esa dEiuh viuk EC Transfer fdlh dks ugha djsxhA ck/; gksdj ;g i= eq>s fy[kuk iM+ jgk gS fd lfpoky; ls ysdj ftyk rFkk lEcU/kr Fkkuk oxSjg lHkh txgksa ij lSdM+ksa i=kpkj fd;k rFkk feydj Hkh i= fn;k x;k ,oa lEcU/kr inkf/kdkfj;ksa ds lkeus Hkh lSdMksa ?kVuk ?kVhr gqvkr Fkk lSdM+ksa izkFkfedh Hkh ntZ gqvkr ysfdu dkjokbZ "kwU; gSA bl i= dks Lekfjr djrs gq, dguk gS fd yk[k izkFkfedh@i=kpkj djus ds mijUr Hkh ljdkj ls visf{kr lg;ksx ugha feyus ds dkj.k ckyw dk voS/k djksekj vius pje lhek ij py jgk gS iz"kklu feydqy ykpkj gS ;k ykpkj fn[kykus dh dksf"K"K dj jgh gS le> ls ijs gSA ckyw ds voS/k /ka/kk djus okys@iklj xzqi dh iqfyl ds lFk lkiB&xkiB djus okys dk rwrh cksy jgk gSA dEiuh pkg dj Hkh dqN ugha dj ik jgh gS] dkuwu O;oLFkk vius gkFk esa ys ugha ldrh gS vkSj dkuwu O;oLFkk ls fdlh izdkj dk visf{kr lg;ksx fey ugh ik jgk gS] ,slh izfrdwy ifjLFkfr esa dEiuh jktLo laxzg.k djus esa vius vki dks vleFkZ ikrh gSA bl ifjLFkfr esa esjs lkeus vc vxyk fdLr nsus dk lkjk fodYi can gks pqdk gSA vr% dEiuh 01 ebZ 2021 ls Hkkstiqj] iVuk ,oa lkj.k ftykssa ds lkjs ckyw ?kkVksa dh cUnksLrh NksM+us dk dfBu fu.kZ; ys jgh gSA fo"oklHkktu go@& 26-4-2021

67. It would be also apposite to reproduce the physical verification report of Sand Ghats of Patna District, which reads as under:

lsok esa] lgk;d funs"kd ftyk [kuu dk;kZy;

iVuk fo'k;%& iVuk ftykUrxZr K-License ij Hk.Mkfjr ckyw dk HkkSfrd lR;kiu djus ds lEcU/k esaA egk"K;] mi;qZDr fo'k; ds lanHkZ esa lknj lwfpr djuk gS fd iVuk ftykUrxZr K-License ij Hk.Mkfjr ckyw dk mBko ml le; rd ugh gksxk] tc rd mDr Hk.Mkfjr ckyw dk HkkSfrd lR;kiu ugh gks tk;sa bl lanHkZ esa dEiuh ds }kjk vkidks bafxr djrs gq, i= Hkh fn;k x;k Fkk] ftlesa Li'V fd;k x;k Fkk fd dEiuh ds }kjk ckyw ?kkVksa dks ljs.Mj dj fn;k x;k gS rFkk [kku ,oa HkwrRo foHkx iVuk ds ek/;e ls Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 dEiuh ds lkjs Hk.Mkfjr ckyw ds vuqKfIr;ksa (K-License-ID) dks Block dj fn;k x;k gS] tc rd dh Hk.Mkfjr ckyw dh lR;kiu u gks tk;sa vc ,slh fLFkfr esa tcfd voS/kdrkZvksa dk cksyckyk Fkk vksj ftlds lkeus ljdkj Hkh djhc&djhc ykpkj gks xbZ FkhA dksfoM&19 ds dkj.k ljdkj }kjk yxk;s x;s ykWdMkmu esa K-License ij dksjksuk ds fo'ke ifjLFkfr dks ns[krs gq, lkjs dehZ dks vius ?kj Hkst fn;k x;kA ykWdMkmu ds fLFkfr esa voS/kdrkZvksa rFkk iqfyl ds lg;ksx ls esjh dEiuh ds LVkWD K-License ls ckyw dh pksjh /kM+Yys ls fd;k x;kA tcfd ,slh vkink esa Hk.Mkfjr ckyw dh lqj{kk dh tekensgh Hkh Jheku dh Fkh u dh dEiuh dh oSl Hkh Hk.Mkfjr ckyw ij ljdkj ds }kjk jksd yxkus dk dksbZ vkSfpR; le> esa ugha vk jgk gS] D;ksfd ljdkj }kjk fn;s x;s vuqKfIr ij Hk.Mkfjr ckyw feuk mfpr fuxZr (K-License ds ID) ij pyku ds lEHko gh ugh-

vr% Jheku~ ls uez fuosnu gS fd ljdkj ds }kjk fuxZr vuqKfIr ij dEiuh ds }kjk fd, x, Hk.Mkfjr ckyw dk ;Fkk"kh?kz HkkSfrd lR;kiu dj ckyw dk mBko dh vuqefr iznku djus dh d`ik dh tk;sa fo"oklHkktu go@& 10-06-2021

68. It would be also apposite to reproduce the Letter No. 1592 dated 14.07.2021 issued by Collectorate, Chapra, which reads as under:

lkj.k lekgj.kky;] Nijk ¼[kuu "kk[kk½ i=kad&1592@[kuu] iVuk Qksu uao&0615&2219545 (o) 2219097(R) fnukad%& 14@07@2021 QSDl uao&06152-22218900(Fax) bZ&esy& dm-patna.bih@nic.in izsf'kr] esllZ czkWMlu dkWeksfMVht izkofyo] MkWo fgeka"qk dEIysDI] CykWd jksM] dksbZyoj pkSd] vkjk ¼Hkkstiqj½2A fo'k;%& iVuk ftykUrxZr lapkfyr ckyw?kkVksa dh foLrkfr cUnkscLrh vof/k iapkax o'kZ 2021 ¼fnukad 01-04-2021 ls fnukad 30-09-2021 ds fy,½ dk cdk;k cUnkscLrh jkf" k C;kt lfgr ,oa ns; vU; dj dk Hkqxrku djus ds laca/k esaA izlax%& vkidk vkosnu i=kad "kwU;] fnukad 25-04-2021] dk;kZy; ds i=kad&982] fnukad 29-04-2021 vkidk vkosnu i=kad "kwU; fnukad 03-05-2021 dk;kZy; ds i=kad&1009] fnukad 04-05-2021 ,oa ftyk [kuu dk;kZy; iVuk ds i=kad&1414 fnukad 01-07-2021] dk;kZy; i=kad&1475] fnukad 08-07-2021 ,oa dk;kZy; vkns" k Kkikad&1557] fnukad 11-07-2021 mi;qZDr fo'k; ds laaca/k esa dguk gS fd iVuk ftykUrxZr lapkfyr ckyw?kkVksa Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 dh foLrkfr cUnkscLrh vof/k iapkax o'kZ 2021 ¼fnukad 01-04-2021 ls 30-09-2021 rd½ ds fy, cUnkscLrh dks vkids }kjk fnukad 01-05-2021 ls ljsaMj dj fn;k x;k gSA dk;kZy; vkns" k Kkikad&1557 fnukad 11-07-2021 }kjk ckyw?kkVksa ds unh rV ls 300 ehVj ds vUnj lds.Mjh yksfMax LFkyksa rFkk Hk.Mkj.k vuqKfIr LFkyksa ij Hk.Mkfjr ckyw dks ljdkh lEifr ekurs gq, dk;kZy; i=kad&833 fnukad 21-03-2021 }kjk fuxZr dk;kZns" k dh lkekU; "krZ dh dafMdk 16(xxviii) rFkk fegkj [kfut ¼lekuqnku voS/k [kuu ifjogu ,oa Hk.Mkj.k fuokj.k½ fu;ekoyh 2019 ¼;Fkk la" kksf/kr½ ds fu;e 50 ds izko/kkuksa ds rgr tIr fd;k x;k gSA ftyk Lrjh; xBr lfefr ds }kjk tIr ckyw dh fedzh ds fy, fu/kkZfjr fd, x, fodz; ewY; ds vk/kkj ij x.kfur jkf" k dk fooj.k fuEu izdkj gS%& lds.Mjh yksfMax Hk.Mkfjr vuqKfIr dqy ek=k ¼?kuQhV dqy jkf" k vH;qfDr LFky ij tIr ckyw LFkyksa ij tIr ckyw esa½ dh ek=k ¼?kuQhV dh ek=k ¼?kuQhV esa½ esa½ 7700270 62256600 12958870 521773155@& :o 40 fr QhV fodz; ewY; vk/kkj dk;kZy; ds izklafxd i=kad&1475 fnukad 06-07-2021 }kjk foLrkfr cUnkscLrh vof/k iapkax o'kZ 2021 ¼fnukad 04-04-2021 ls fnukad 30-09-2021 rd½ cdk;k cUnkscLrh jkf" k :o 80]45]58]604@& ¼: vLlh djksM+ vM+rkfyl yk[k vUBkou gtkj N% lks pkj ek=½ ns; dj ,oa C;kt tek djus gsrq uksfVl fuxZr fd;k x;k Fkka ckyw Hk.Mkj.k LFkyksa ij tIr ckyw dh ek=k fedzh fd, tkus ij dqy jkf" k :o 52]17]73]155@& ¼:o ckou djksM+ l=g yk[k rhgRrj gtkj ,d lks ipiu ek=½ ljdkj dks izkIr gksxkA vkids Hk.Mkj.k LFkyksa ij tIr 1]29]56]870 ?kuQhV dk cdk;k vkids vLi'V "ks'k cprk gSA vkids }kjk foLrkfr cUnkscLrh vof/k fnukad 01-04-2021 ls fnukad 30-09-2021 rd dh cUnkscLrh dk izR;kiZ.k fd;k x;k] fdUrq fegkj ckyw [kuu uhfr 2019 dh dafMdk 18 ds izko/kku ds rgr vkids }kjk izR;kiZ.k ds iwoZ lEiw.kZ cUnkscLrh jkf" k tek ugha dh xbZ gSA vr% vkids izR;kiZ.k dks Lohd`r djrs gq, lwfpr fd;k tkrk gS fd "ks'k cUnkscLrh jkf" k tek ugha dh x;h gSA vr% vkids izR;kiZ.k dks Lohd`r djrs gq, lwfpr vLi'V "ks'k cUnkscLrh jkf" k :o 28]30]85]450@& ¼:o vBkbZl djksM+ rhl yk[k ipklh gtkj pkj lks ipkl ek=½ C;kt lfgr ,oa ns; dj vLi'V [kuu dk;kZy;] iVuk esa vfoYec Hkqxrku djuk lqfuf"pr djsa vU;Fkk uhykei= eqdnek nk;j djrs gq, vxzsrij dkjZokbZ fd;k tk,xkA go&vLi'V lekgrkZ] iVuk

69. It would be also apposite to reproduce the letter dated 04.09.2021 regarding selling of seized sand from all IDs and review the revenue collection from sand, which reads as under:

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 fcgkj ljdkj [kku ,oa HkwrRo foHkkx lao lao&2@,eo,eo ¼cko½&22@21&2614@,eo] iVuk] fnukad&04@09@2021 izs'kd] xksiky eh.kk] Hkkoizolso funs"kd] [kkuA lsok esa] lHkh lacaf/kr mi funs"kd lHkh lacaf/kr lgk;d funs"kd lHkh lacaf/kr [kfut fodkl i n k f / k d k j h] l H k h l a c a f / k r [k k u f u j h { k d] iVuk@Hkkstiqj@lkj.k@jksgrkl@vkSjaxckeknA fo'k;%& tIr ckyw dh fedzh esa rhozrk ykus ,oa lHkh ID ls ckyw dh fedzh izkjEHk djus ,oa izkIr jktLo dh leh{kk ds laca/k esaA egk"k;] mi;qZDr fo'k;d laca/k esa dguk gS fd fofHkUu ftykUrxZr izi=&K y?kq [kfut Hk.Mkj.k vuqKfIr LFkyksa ij tIr ckyw rFkk foHkkxh; iho,eo;wo ds MsVksel esa ntZ izi=&K Hk.Mkj.k vuqKfIr esa miyC/k ckyw dh ek=k ¼vuqyXud&1½ ls lacaf/kr vkadMksa ds vk/kkj ij vkids ftykUrxZr jktLo lekgj.k dk y{; fu/kkZj.k fd;k x;k gS] tks i=kad&2333@,eo] fnukad&19-08-2021 ls lwfpr fd;k x;k Fkka fdUrq unh rV ls 300 ehVj ds vanj ldsUMjh yksfMax ikWbZaV ij rFkk vU; LFkyksa ij tIr Hk.Mkfjr ckyw dh ek=k dks Hkh ftykLrjh; lfefr }kjk fu/kkZfjr nj ls ckyw fedzh dj;k;h tkuh gS ,oa jkf"k [kuu "kh'kZ esa tek dj;k;h tkuk gSA leh{kk ds nkSjku ;g Hkh Kkr gqv k gS fd vkids ftykUrxZr lHkh vkbZomho ls ckyw dh fedzh ugha dh tk jgh gS] ¼ftykokj fooj.k layXu½A mijksDr ds vkyksd esa mDr ds vkyksd esa funsf"kr fd;k tkrk gS fd vius ftykUrxZr lHkh vkbZomho ls ckyw dh fedzh pkyw dj;k;h tk;A vius ftyk esa vHkh rd fedzh fd;s x;s ckyw] "ks'k cps ckyw] tek jkf"k ls lacaf/kr izfrosnu ;Fkk"kh?kz miyC/k djuk lqfuf"pr fd;k tk;A foHkkx ds ikl miyC/k izfrosnu ds vuqlkj ftykokj fLFkfr fuEu izdkj gS Day wise Sell of sand from Seized Stocks Sl. District No. of Allowed Total Sale Balance in MT No. Accounts Capping Qty (July+August+ in MT September) in MT

1. AURANGABAD 9 4,27,772.79 88,278.00 3,39,494.79

2. BHOJPUR 5 1,99,483.36 24,026.00 1,75,457.36

3. PATNA 38 4,27,677.60 2,33,124.00 1,94,553.60

4. ROHTAS 5 30,846.00 16,338.00 14,508.00

5. SARAN 15 1,81,417.24 80,930.00 1,00,487.24 TOTAL 72 12,67,196.99 4,42,696.00 8,24,500.99 3- blh dze esa ;g Hkh funsf"kr fd;k tkrk gS fd ;fn vkids ftyk esa ckyw dh Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 ek=k esa deh@pksjh gqbZ gS] rks fcgkj [kfut ¼lekuqnku] voS/k [kuu] ifjogu ,oa HkaMkj.k fuokj.k½ fu;ekoyh] 2019 ds fu;e&39 vkSj 56 ,oa Hkkjrh; naM fo/kku dh lqlx a r /kkjkvksa ds rgr izkFkfedh ntZ dj;k;saA lkFk gh jktLo gkfudk vkadyu dj mldh olwyh gsrq fuyke&i= eqdnek nk;j dj ntZ izkFkfedh vkSj nk;j uhyke i= okn dh izfr miyC/k djuk lqfuf"pr fd;k tk;A vuqyXud%& ;FkksDrA fo"oklHkktu go@& funs"kd] [kku Kkikad%& 02 ,eo,eo¼cko½&22@21-2614@,eo] iVuk] fnukad& 04@9@2021 izfrfyfi%& lHkh

lacaf/kr lekgYkkZ dks lwpukFkZ ,oa vko";d dkjZokbZ gsrq izsf'krA go@& funs"kd] [kku Kkikad%& 02 ,eo,eo¼4cko½&22@21-2614@,eo] iVuk] fnukad& 04@9@2021 izfrfyfi%& iz/kku lfpo dks'kkax] [kku ,oa HkwrRo foHkkx] fcgkj] iVuk dks lwpukFkZ ,oa vko";d dkjZokbZ gsrq izsf'krA go@& funs"kd] [kku

70. It would be also apposite to reproduce the order dated 18.05.2023 as passed by one of the learned coordinate Bench of this Court in Cr. Misc. No. 8423/2023, by which Hon'ble Court has granted anticipatory bail to one of the petitioner namely, Sadashiv Prasad Singh, who was the Chief Executive Officer of M/s Aditya Multicom Pvt. Ltd., which reads as under for a ready reference:

"Heard Mr. P.N. Shahi, learned Senior Counsel assisted by Mr. Suraj Samdarshi, learned Advocate for the petitioner and Mr. Naresh Dixit, learned Spl. PP for the Department of Mines, Government of Bihar.

Pursuant to the direction of this Court vide its order dated 17.05.2023, the District Mining Officer, Aurangabad is present, Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 however, he being a new incumbent of the post was unable to render much assistance, hence, this Court called for the appearance of the Director, Mines. Mr. Md. Naiyar Iqbal, the Director, Department of Mines has, thus, appeared and explained the matter.

Petitioner in the present case is the Chief Executive Officer of M/S Aditya Multicom Private Limited (hereinafter referred to as "the Company"). He is seeking pre-arrest bail in connection with Daudnagar P.S. Case No. 481 of 2021 registered for the offences punishable under Sections 379, 411 and 420 of the Indian Penal Code and Rule 11, 39 and 56 of the Bihar Miner (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as "the Rules of 2019"). He has given the list of cases in paragraph '3' which are all of similar nature and from which, it appears that in recent times, about 28 cases have been lodged against the Company and its officials wherein the allegations are of similar nature.

As per the prosecution story, the Mines Development Officer, Aurangabad alleges that in course of physical verification of the stock of the K- License No. 05, 04/2021 and 19/2020, the total stock of 2,05,350 CFT were found whereas the Project Monitoring Unit (in short "PMU") made available a report that at the stock point, the total quantity of sand stored was 7,08,830 CFT. He alleges that the license holder and its staffs/operators have transported 05,03,480 CFT of sand without issuing pre-paid e- challan. It is alleged that the license holder has not followed the provisions of Clause (1), (12), (13), and (15) of the License and Rule 11 and 39 of the Rules of 2019 which is punishable under Rule 56 of the Rules. The informant alleges that the license holder company had proceeded under Sections 379, 411, 420 of the Indian Penal Code and other suitable Sections.

Learned Senior Counsel for the petitioner submits that it is an admitted fact that the Company is the settlee of the sand ghat. Lastly, the settlement was extended for the period 01.04.2021 to 30.09.2021. He paid the first installment of the settlement amount but thereafter for various reasons, the Company decided to surrender the settlement in terms of the contract. The Company surrendered the settlement with effect from Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 01.05.2021.

It is stated that after the Company surrendered the lease, the District Magistrate, Aurangabad wrote to the Director, Mines and Geological Department, Government of Bihar to suspend the stock license of the petitioner with immediate effect and to conduct a verification of the stock at the different stock points in the district. In this connection, letter containing Memo No. 635 dated 01.05.2021 (Annexure '4') was issued by the District Magistrate, Aurangabad.

Learned Senior Counsel further submits that in the light of the said order, the Sub-Divisional Magistrate, Daudnagar conducted an inspection and according to his report at K-point 4/2021 and 5/2021, approximately 1,05,750 and 15,300 metric ton of sand were found.

Learned Senior Counsel has explained that if it is converted in CFT, it will come to 30,26,000/- CFT. The contention is that on the date of inspection i.e. 11.05.2021, 30,26,000/- CFT of sand were present at those places.

Learned Senior Counsel further submits that after the Settle Company surrendered the stocks, the possession of the same was taken and arrangements were made by the Department to sale the stocks through their own platforms. In this connection, the notice published in newspaper Dainik Bhaskar by the Department as contained in Annexure '9' to the application dated 10th July, 2021 has been placed.

A bunch of papers have been placed today from which learned counsel for the petitioner has submitted that it is the own letter of the Mines Development Officer, Aurangabad addressed to the Officer-in-Charge of different police stations as contained in Memo No. 1555 dated 25.11.2021 which refers the letter of the District Magistrate dated 11.07.2021 and 17.08.2021. By this letter, the Mining Development Officer has reminded the Officer- in-Charge of the police station that they had to take care of the safety of the stocks lying at the stock points of the earlier settlee. By way of reminder, the Officer-in-Charge were directed to provide security so that no loss is caused to the Government Exchequer.

Learned Senior Counsel for the petitioner has also produced Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 a copy of the e-challan which is generated at the mining point. It contains the e-cap of ghat. The e-challan issued by the settlee of this case has been enclosed as Annexure '13' to show that these e-challans are issued containing the weight of the sand, quantity in CFT and the value for which it is sold.

These sand are sold from the stock point, however, they are the same and one in respect of which the e-challan is generated at the mining point.

In any case, it is the submission of the learned Senior Counsel that after surrender of the stock, it was in the possession of the Officer-in-Charge of the concerned police station, therefore, these are the relevant facts which have not been disclosed in the FIR lodged on 26.08.2021.

Mr. Naresh Dixit, learned Spl. PP for the Department of Mines and the Director, Department of Mines both do not dispute the contention of the learned counsel for the petitioner that the settlement was surrendered on 01.05.2021. They do not dispute that after it was surrendered, an inspection was carried by the S.D.M., Daudnagar on 11.05.2021 in which 30,26,000/- CFT sand were found at the stock point. They further do not dispute that after the stocks were surrendered, steps were taken to sell those stocks through the Bihar State Mining Corporation and further after surrender the Officer-in-Charge of the concerned police station had been asked to provide security at the stock point and it was the responsibility of the Officer-in-Charge to ensure that no theft takes place.

In course of hearing all these matters, while answering the queries of this Court, learned counsel for the Department of Mines as well as the Director of the Department have equivocally stated that there may be a situation in which even the persons who were given the responsibility to keep the stocks secured may have been involved.

Having regard to the facts and circumstances of the case, the submissions noted hereinabove and the statements of the learned counsel for the Department and the Director of Mines as recorded hereinabove when this Court finds that in large number of cases which are stated in paragraph '3' of the application, the petitioner has been granted privilege of anticipatory bail by learned co-ordinate Bench of this Court and some of them which Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 have been placed before this Court are in Cr. Misc. No. 68755 of 2022, Cr. Misc. No. 69656 of 2022, Cr. Misc. No. 69250 of 2022, Cr. Misc. No. 69140 of 2022, Cr. Misc. No. 69402 of 2022, Cr. Misc. No. 23928 of 2022, Cr. Misc. No. 74522 of 2022 and Cr. Misc. No. 7407 of 2023, to maintain a uniformity in justice, this Court directs that in case of his arrest or surrender within a period of four weeks from today, the petitioner shall be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) in connection with Daudnagar P.S. Case No. 481 of 2021 with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Aurangabad, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

And further condition that the court below shall verify the criminal antecedents of the petitioner and in case at any stage it is found that the petitioner has concealed his

criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Before this Court parts with this order, it is expedient in the interest of justice to record that after today's discussion in connection with this case, in course of hearing, the Director of Mines having realized that the role of those who were given the responsibility of securing the stocks is also required to be looked into, undertakes to take up this issue at appropriate level for appropriate action.

This application stands disposed of accordingly."

71. It would be also apposite to reproduce Sub- section (4) and (5) of Section 100 of the Cr.P.C. for better understanding of the legal position qua search and seizure, which are as under:-

"100. Persons in charge of closed place to allow search-

(1) xxx Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 (2) xxx (3) xxx (4) Before making a search under this chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it."

72. It would be also apposite to reproduce Sections 378, 379, 406, 411, 420 of the Indian Penal Code for better understanding of legal issues involved in present case, which are as under:

"Section 378:- Theft. Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft."

379. Punishment for theft.-- Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

406. Punishment for criminal breach of trust.--Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or

with fine, or with both.

411. Dishonestly receiving stolen property.-- Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

420. Cheating and dishonestly inducing delivery of property.

--Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

73. It is also relevant to reproduce Section 4, 14, of the Mines and Minerals (Development and Regulation), Act, 1957, which reads as under:

4. Prospecting or mining operations to be under license or lease. [1] [No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence [or of a exploration licence] or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder]:

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with terms and conditions of a prospecting license or mining lease granted before the commencement of this Act which is in force at such commencement:

[Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, [the Atomic Minerals Directorate for Exploration and Research] of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited., a Government company within the meaning of [clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), and any [other entities including private entities that may be notified for this purpose, subject to such conditions as may be specified by the Central Government] [Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease mining concession or by any other name) in force immediately before the commencement of this Act in the Union territory of Goa, Daman and Diu.] [(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 accordance with the provisions of this Act and the rules made thereunder.] [No reconnaissance permit,

prospecting license or mining lease] shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder. [(3)Any State Government may, after prior consultation with the Central Government and in accordance with the rule made under section 18, [undertake reconnaissance, prospecting or mining operations with respect to any mineral specified in the First Schedule in any area within that State which is not already held under any reconnaissance prospective or mining lease].

xxx xxx xxx

14. [Sections 5 to 13] not to apply to minor minerals.□The provisions of [sections 5 to 13] (inclusive) shall not apply to 2[quarry leases, mining leases or other mineral concessions] in respect of minor minerals.

74. It is also relevant to reproduce section 29C, 29F, 30, 39, 41, 46, 47, 50, 51 and 59 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019, which read as under:

29-C. Observance of terms & conditions of mining plan/ environmental clearance.--The settlee shall observe the terms and conditions of the mining plan as well as the terms and conditions laid in the Environmental Clearance pertaining to the concerned settlement.

29-F. Installation of Weighbridges.--Each sandghat may have an electronic weigh-bridge, integrated with central server. However for adjacent sandghats, department may allow use of common weighbridge. Any vehicle found carrying sand without proper weightment slip/ e-challan shall be liable to be seized under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 or the rules made there under.

30. Penalty in case of breach of terms.-- (1) In case of mining within restricted area or mining sand beyond a depth of 3 meters, a penalty of Rs. One Lakh shall be imposed by the Collector against the settlee for a first time violation.

(2) For a second time violation a penalty ranging from Rs. Five lakh to rupees ten lakhs may be imposed against the settlee keeping in view the gravity of the violation. Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 (3) Wherever a settlee is found indulging in such offence for the third time or more the settlement of that particular sandghat may be suspended by the Collector temporarily for a maximum period of one month until such breaches are rectified. If the breaches are not rectified in the time given by the Collector in this regard, action for cancellation of the settlement of the concerned sandghat shall be taken in extreme condition. (4) Transportation of sand shall be carried out through covered carriers only and no wet sand shall be loaded in carriers. The Competent Authority shall impose fine equivalent to market price of sand loaded in the said carrier for any transportation of wet sand and sand transported uncovered from the transporter.

39. (1) Every person who carried business of minor/major mineral beyond any lease hold area shall obtain a stockist license from the Mining Officer in Form-K which shall be displayed at a conspicuous place of business and shall maintain proper accounts of purchase and sale of all such minerals in a register in form-H which shall be produced before the Mines Commissioner, Director of Mines, Additional Director of Mines or Deputy Director of Mines or Mining officer or any other officers authorised by the Government, for inspection. Every application for obtaining license in Form-K shall be accompanied with a fee of Rs. 10,000/- (Ten Thousand Rupees)

(a) Every such license shall be valid for one calendar year; (b) Every such license may be renewed on application which shall be accompanied by a fee of Rs. 2000 (Two Thousand Rupees) (2) Every such person as mentioned in (1) shall issue a transport challan in Form-'G' or in the prescribed format to every carrier, while dispatching minerals from his stock. (3) If any person as mentioned in (1) fails to maintain a register in form 'H' or obtain license in Form 'K' or issue a challan in Form 'G' or in the prescribed format, shall be punishable with simple imprisonment which may extend up to one year or value of the mineral along with a fine which may extend upto Rs 10,000/- or with both.

41. E-Challan- The movement of all minor minerals, whether by Mineral Concession Holder or by the Corporation, shall be monitored through e-Challan in Form G or in the prescribed format.

46. Registers, returns and Signboard.-- (1) Every Mineral Concession holder shall maintain Register in Form 'H' in which day to day transaction shall be entered. He shall also have to display a signboard.

(2) Every Mineral Concession holder shall submit every month to the Competent Officer a true and correct return for minerals in Form 'I' by the fifteenth day of the following month to which it relates.

(3) Every Mineral Concession Holder shall submit annual returns Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 in Form "J" as appended to these rules before the 30th April of each year in respect of the preceding financial year. (4) Every Mineral Concession holder shall give all reasonable facilities to the Mining Officer or Director of Mines or Additional Director of Mines or Deputy Director of Mines or any other Officer authorised by the Collector in this behalf to inspect, verify and check the accounts of the minerals.

(5) If the accounts, returns and other evidence produced by the Mineral Concession holder or any other person who has removed minerals, are in the opinion of any of the officers authorised incorrect, incomplete or unreliable either wholly, or partly, the officer concerned, shall report to the Mining Officer who shall proceed to assess to the best of his judgment, the amount of royalty due from the assessee:

Provided that if the mining officer himself has formed the opinion he shall proceed forthwith to assess to the best of his judgment, the amount of royalty due from the assessee. (6) The state government in addition to accounts/ returns or other evidence may also direct to ascertain the actual quantity of mineral excavated during relevant concession period by deploying modern technology such as aerial survey/ground

survey or any latest method.

47. Power to Suspend or Cancel Mineral Concession.-- (1) The Collector shall be competent to cancel / suspend any Mineral Concession in his district.

(2) Subject to such restrictions as the State Government may prescribe, the Collector may suspend or cancel and forfeit the Security Deposit/Earnest Money Deposit of any mineral concession in the following circumstances after giving reasonable opportunity of being heard -

(a) if wrong documents have been furnished to obtain mineral concession; or (b) if the mineral concession is transferred or sublet by the holder thereof; or

(c) if any mining revenue payable by the holder thereof is not duly paid; or

(d) in the event of any breach by the holder of such mineral concession by his servant or agent, or by any one acting on his behalf, with his express or implied permission, of any of the terms and conditions of such mineral concession; or

(e) if the holder of mineral concession or his agent or employee is convicted of an offence punishable under the Act or these Rules or any other law for the time being in force, relevant and connected with mining matters or matter relating to mining revenue or of any cognizable and non-bailable offence under any other relevant law; or

(f) if the purpose for which the mineral concession was granted ceases to exist; or

(g) if the mineral concession has been obtained through misrepresentation or fraud; or

(h) If the Mineral Concession Holder has violated any of the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 conditions mentioned in these rules; or

(i) If the Mineral Concession Holder fails to obtain the environmental clearance or violates any of the condition mentioned therein; or

(j) If the Mineral Concession Holder fails to start mining operation within three months from the date of executing deed

(k) If, for any other reason, the Collector is prima facie satisfied, that the mineral concession is fit to be cancelled. (3) For any action taken under sub-rule (1), the Mineral Concession Holder shall not be eligible for any compensation or refund whatsoever.

(4) Notwithstanding anything mentioned above, in case of detection of any violation of the Act, these rules and any other condition of the mineral concession the State Government or the Collector may, apart from cancelling the mineral concession, also impose suitable financial penalties and/or start criminal prosecution.

(5) Any such penalties levied shall be recoverable under the Public Demand Recovery Act, 1914 (Act 4 of 1914).

50. Exit Option for Mineral Concession Holder.-- (1) Any Mineral Concession Holder, at any point of the Mineral Concession period, may opt to exit the business upon giving Six months' notice to the Collector. However, this option is not available to Mineral Concession Holder who have not paid their bidding amount or settlement amount or have violated any condition of settlement.

(2) The Collector may allow such Mineral Concession Holder to exit the business and return any security money deposited by the Mineral Concession Holder after deducting such dues as are recoverable.

(3) The Collector, thereupon, shall initiate arrangement for a fresh bidding.

(4) In case of fraud or violation of mining or environmental conditions or any other irregularities reported, no exit option will be available to the Mineral Concession Holder and their security deposit shall be forfeited.

51. Rent/royalty and assessment.-- 1. When a Mineral Concession is granted:- (a) Dead rent shall be charged at the rates specified in Schedule II;

(b) Royalty shall be charged at the rates specified in Schedule III(A); and

(c) Surface rent shall be charged at the rate specified by the Collector from time to time for the area occupied or used by the lessee.

2. On and from the date of commencement of these rules, the provisions of sub-rule (1) shall also apply to the leases granted or renewed prior to the date of such commencement and subsisting on such date.

3. If the Mineral Concession Holder permits the working of more Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 than one mineral in the same area, the Collector may charge separate dead rent in respect of each mineral. Provided that the lessee shall be liable to pay the dead rent or royalty in respect of each mineral, whichever be higher in amount.

4. Notwithstanding anything contained in any instrument of lease the Mineral Concession Holder shall pay rent/royalty in respect of any minor mineral own, extracted and removed at the rate specified from time to time in Schedule II and III(A).

5. The State Government may, by notification in the official Gazette, amend the Schedule II, III(A) & III(B) so as to enhance or reduce the rate at which rents/royalties shall be payable in respect of any minor mineral with effect from the date of publication of the notification in the official Gazette.

6. The Mining Officer, after such enquiry and verification as he may deem necessary of the monthly returns furnished by the lessee in Form "I" and Annual Return in Form "J" shall assess the amount of rent/royalty payable by the Mineral Concession Holder at the end of the prescribed period.

7. Notwithstanding anything contained in these Rules, the royalty in case of auction of the minor minerals shall be the amount of auction. In cases where the royalty on dispatched quantity exceeds the auction amount, the extra royalty for the excess quantity of mineral extracted shall also be payable.

8. The Mineral Concession Holder shall also pay all assessments and imposition whatsoever being in the nature of public demands which shall from time to time be charged, assessed or imposed by the authority of the State Govt.

59. Power to enter, inspect, search and seize.--(1) For the purpose of ascertaining the position of the working, actual or prospective of any mine or abandoned mine or for any other purpose connected with these rules, any of the following Officers namely:

(a) The Mines Commissioner, the Director Mines; or

(b) The Collector or any other officer authorised by the Collector

(c) Additional Director, Deputy Director, Assistant Director, Mineral Development Officer and Mining Inspectors; may, (i) enter and inspect any mine;

(ii) survey and take measurements in any such mine;

(iii) weigh, measure or take measurements of the stocks of mineral lying at any mine;

(iv) examine any document, book, register or record in the possession or power of any person having the control of, or connected with, any mine and place, marks of identification thereon and take extracts from or make copies of such document, book, register or record;

(v) order the production of any such document, book register as is referred in clause(iv);

(vi) examine any person having the control of or connected with any mine;

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

(vii) seize any document, sample, equipment, conveyance, animal, commodity, minor mineral, material, raw material or any other item of concern.

(2) In case of such search and seizure, provisions of Section 100 of the Code of Criminal Procedure 1973 shall apply."

75. It would be further relevant to reproduce Rule 11 of the Bihar Minor Mineral Concession Rules, 1972, which reads as under:

"11A. Mode of Settlement -(1) The settlement of sand as minor mineral shall be done by public auction-cum-tender in favour of the highest bidder by the Collector/any officer so authorised by the State Government in the underlined manner;-

(a) Each river as a whole situated in each district shall be considered as a single stretch, the minimum area of which shall not be less than 5 hectares in any case.

(b) Likewise, all rivers in a district shall be treated as individual stretches and all such stretches in one district shall be combined into one single unit for the purpose of settlement.

(c) The highest bidder shall deposit 25% of the auction amount immediately after the auction, following which an in-principle sanction order shall be issued in his favour by the Collector/any officer so authorized by the State Government.

(d) The highest bidder shall submit the required documents (approved mining plan, environmental clearance, bank draft of the due installment of auction amount and other taxes within the prescribed time limit as referred to in the prevailing notification issued by the State Government in this regard, following which the work order shall be issued in his favour by the Collector/any Officer so authorised by the State Government.

(e) The successful bidder shall submit a mining plan prepared for the respective sandghat unit and duly approved by the State Government or by the Officer/Committee so authorised in this regard.

(f) The successful bidder shall obtain environmental clearance from the competent authority as per the prevailing Environmental impact Assessment notification of the Ministry of Environment and Forest, Government of India and as per the provisions of the Environment Protection Act.

Provided that the State Government may direct for the combined settlement of two or more districts as one single unit keeping in view specific geographical disposition, practical difficulties in district-wise demarcation of river bed and sand mining areas located therein, law and order situation, interest of revenue, checking of illegal mining and other relevant factors into consideration. Provided further that in Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 case of non settlement of anyone or more units, the Mines Commissioner may decide collection of royalty through any public sector undertaking or zila parishad or gram panchayat on recommendation of the Collector.

Provided further that such sand deposits in isolated and far flung areas, which reasonably and conveniently could not be settled by auction shall be identified by the Collector and on approval of

the same by the Mines Commissioner, the competent officer (as defined in the rules) may issue permits for extraction of sand from such areas, period for which will not exceed one year....."

76. It would be further apposite to reproduce para 25 of Debendra Nath Padhi case (supra), which reads as under:

"25. Any document or other thing envisaged under the aforesaid provision can be ordered to be produced on finding that the same is "necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code". The first and foremost requirement of the section is about the document being necessary or desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production. If any document is necessary or desirable for the defence of the accused, the question of invoking Section 91 at the initial stage of framing of a charge would not arise since defence of the accused is not relevant at that stage. When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the court for summoning and production of a document as may be necessary at any of the stages mentioned in the section. Insofar as the accused is concerned, his entitlement to seek order under Section 91 would ordinarily not come till the stage of defence. When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it, whether police or accused. If under Section 227, what is necessary and relevant is only the record produced in terms of Section 173 of the Code, the accused cannot at that stage invoke Section 91 to seek production of any document to show his innocence. Under Section 91 summons for production of document can be issued by court and under a written order an officer in charge of a Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 police station can also direct production thereof. Section 91 does not confer any right on the accused to produce document in his possession to prove his defence. Section 91 presupposes that when the document is not produced process may be initiated to compel production thereof."

77. It would be further, apposite to reproduce para 22, 23, 24, 25, 33, 34 & 46 of Mariam Fasihuddin case (supra), which reads as under:

"22. Section 420 IPC provides that whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy, the whole or any part of valuable security, or anything, which is signed or sealed, and which is capable of being converted into a valuable security, shall be liable to be punished for a term which may extend to seven years and shall also be liable to fine. Further, Section 415 IPC distinctly defines the term 'cheating'. The provision elucidates that an act marked by fraudulent or dishonest intentions will be categorised as 'cheating' if it is intended to induce the person so deceived to deliver any property to any person, or to consent that any person shall retain any property,

causing damage or harm to that person.

23. It is thus paramount that in order to attract the provisions of Section 420 IPC, the prosecution has to not only prove that the accused has cheated someone but also that by doing so, he has dishonestly induced the person who is cheated to deliver property. There are, thus, three components of this offence, i.e., (i) the deception of any person, (ii) fraudulently or dishonestly inducing that person to deliver any property to any person, and (iii) mens rea or dishonest intention of the accused at the time of making the inducement. There is no gainsaid that for the offence of cheating, fraudulent and dishonest intention must exist from the inception when the promise or representation was made.

24. It is well known that every deceitful act is not unlawful, just as not every unlawful act is deceitful. Some acts may be termed both as unlawful as well as deceitful, and such acts alone will fall within the purview of Section 420 IPC. It must also be understood that a statement of fact is deemed 'deceitful' when it is false, and is knowingly or recklessly made with the intent that it shall be acted upon by another person, Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 resulting in damage or loss. 'Cheating' therefore, generally involves a preceding deceitful act that dishonestly induces a person to deliver any property or any part of a valuable security, prompting the induced person to undertake the said act, which they would not have done but for the inducement.

25. The term 'property' employed in Section 420 IPC has a well-defined connotation. Every species of valuable right or interest that is subject to ownership and has an exchangeable value - is ordinarily understood as 'property'. It also describes one's exclusive right to possess, use and dispose of a thing. The IPC itself defines the term 'moveable property' as, "intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth." Whereas immovable property is generally understood to mean land, benefits arising out of land and things attached or permanently fastened to the earth.

33. The offence of 'forgery' under Section 468 IPC postulates that whoever commits forgery, intending that the document or electronic document forged, shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Whereas Section 471 IPC states that whoever fraudulently or dishonestly uses as genuine any documents which he knows or has reason to believe it to be a forged document, shall be punished in the same manner as if he had forged such document.

34. There are two primary components that need to be fulfilled in order to establish the offence of 'forgery', namely : (i) that the accused has fabricated an instrument; and (ii) it was done with the intention that the forged document would be used for

the purpose of cheating. Simply put, the offence of forgery requires the preparation of a false document with the dishonest intention of causing damage or injury.

46. The sum and substance of the above discussion is that the elementary ingredients of 'cheating' and 'forgery' are conspicuously missing. Thus, the continuation of the criminal proceedings against the Appellants is nothing but an abuse of the process of law.

78. It would be further apposite to reproduce para 27 of Randheer Singh case (supra), which reads as under:

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 "27. In Mohd. Ibrahim [Mohd. Ibrahim v. State of Bihar, (2009) 8 SCC 751 : (2009) 3 SCC (Cri) 929] , this Court held as under : (SCC pp. 757-60, paras 19-24 & 27-30) "19. To constitute an offence under Section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived

(i) to deliver any property to any person, or

(ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-

accused.

21. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

22. As the ingredients of cheating as stated in Section 415 are not found, it cannot be said that there was an offence punishable under Sections 417, 418, 419 or 420 of the Code. A clarification

23. When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint.

24. The term "fraud" is not defined in the Code. The dictionary definition of "fraud" is 'deliberate deception, treachery or cheating intended to gain advantage'. Section 17 of the Contract Act, 1872 defines "fraud" with reference to a party to a contract.

* * *

27. The term "fraudulently" is mostly used with the term "dishonestly" which is defined in Section 24 as follows:

24. "Dishonestly".--Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".'

28 [Ed. : Para 28 corrected vide Official Corrigendum No. F.3/Ed.B.J./149/2009 dated 6-10-2009.]
. To "defraud" or do something fraudulently is not by itself made an offence under the Penal Code, but various acts when done fraudulently (or fraudulently and dishonestly) are made offences. These include:

- (i) Fraudulent removal or concealment of property (Sections 206, 421 and 424).
- (ii) Fraudulent claim to property to prevent seizure (Section 207).
- (iii) Fraudulent suffering or obtaining a decree (Sections 208 and 210).
- (iv) Fraudulent possession/delivery of counterfeit coin (Sections 239, 240, 242 and 243).
- (v) Fraudulent alteration/diminishing weight of coin (Sections 246 to 253).
- (vi) Fraudulent acts relating to stamps (Sections 255 to 261).
- (vii) Fraudulent use of false instrument/weight/measure (Sections 264 to 266).
- (viii) Cheating (Sections 415 to 420).

(ix) Fraudulent prevention of debt being available to creditors (Section 422).

(x) Fraudulent execution of deed of transfer containing false statement of consideration (Section 423).

(xi) Forgery making or executing a false document (Sections 463 to 471 and 474).

(xii) Fraudulent cancellation/destruction of valuable security, Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 etc. (Section 477).

(xiii) Fraudulently going through marriage ceremony (Section 496).

It follows therefore that by merely alleging or showing that a person acted fraudulently, it cannot be assumed that he committed an offence punishable under the Code or any other law, unless that fraudulent act is specified to be an offence under the Code or other law.

Section 504 of the Penal Code

29. The allegations in the complaint do not also make out the ingredients of an offence under Section 504 of the Penal Code. Section 504 refers to intentional insult with intent to provoke breach of peace. The allegation of the complainant is that when he enquired with Accused 1 and 2 about the sale deeds, they asserted that they will obtain possession of land under the sale deeds and he can do whatever he wants. The statement attributed to Appellants 1 and 2, it cannot be said to amount to an "insult with intent to provoke breach of peace". The statement attributed to the accused, even if it was true, was merely a statement referring to the consequence of execution of the sale deeds by the first appellant in favour of the second appellant. Conclusion

30. The averments in the complaint if assumed to be true, do not make out any offence under Sections 420, 467, 471 and 504 of the Code, but may technically show the ingredients of offences of wrongful restraint under Section 341 and causing hurt under Section 323 IPC."

79. It would further be apposite to reproduce para 69 to 72 of Sanjay case (supra), which reads as under:

"69. Considering the principles of interpretation and the wordings used in Section 22, in our considered opinion, the provision is not a complete and absolute bar for taking action by the police for illegal and dishonestly committing theft of minerals including sand from the riverbed. The Court shall take judicial notice of the fact that over the years rivers in India have been affected by the alarming rate of unrestricted sand mining which is damaging the ecosystem of the rivers and safety of bridges. It also weakens riverbeds, fish breeding and destroys the natural habitat of many organisms. If these illegal activities are not stopped by the State and the police authorities of the

State, it will cause serious repercussions as mentioned hereinabove. It will not only change the river hydrology but also will deplete the groundwater levels.

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

70. There cannot be any dispute with regard to restrictions imposed under the MMDR Act and remedy provided therein. In any case, where there is a mining activity by any person in contravention of the provisions of Section 4 and other sections of the Act, the officer empowered and authorised under the Act shall exercise all the powers including making a complaint before the Jurisdictional Magistrate. It is also not in dispute that the Magistrate shall in such cases take cognizance on the basis of the complaint filed before it by a duly authorised officer. In case of breach and violation of Section 4 and other provisions of the Act, the police officer cannot insist the Magistrate for taking cognizance under the Act on the basis of the record submitted by the police alleging contravention of the said Act. In other words, the prohibition contained in Section 22 of the Act against prosecution of a person except on a complaint made by the officer is attracted only when such person is sought to be prosecuted for contravention of Section 4 of the Act and not for any act or omission which constitutes an offence under the Penal Code.

71. However, there may be a situation where a person without any lease or licence or any authority enters into river and extracts sand, gravel and other minerals and remove or transport those minerals in a clandestine manner with an intent to remove dishonestly those minerals from the possession of the State, is liable to be punished for committing such offence under Sections 378 and 379 of the Penal Code.

72. From a close reading of the provisions of the MMDR Act and the offence defined under Section 378 IPC, it is manifest that the ingredients constituting the offence are different. The contravention of terms and conditions of mining lease or doing mining activity in violation of Section 4 of the Act is an offence punishable under Section 21 of the MMDR Act, whereas dishonestly removing sand, gravel and other minerals from the river, which is the property of the State, out of the State's possession without the consent, constitute an offence of theft. Hence, merely because initiation of proceeding for commission of an offence under the MMDR Act on the basis of complaint cannot and shall not debar the police from taking action against persons for committing theft of sand and minerals in the manner mentioned above by exercising power under the Code of Criminal Procedure and submit a report before the Magistrate for taking cognizance against such persons. In other words, in a case where there is a theft of sand and gravel from the government land, the police can register a case, investigate the same and submit a final report under Section 173 CrPC before a Magistrate having jurisdiction for the purpose of taking cognizance as provided in Section 190(1)(d) of the Code of Criminal Procedure."

80. And, finally it would be apposite to reproduce the ratio of Bhajan Lal case (supra) what Hon'ble Apex Court Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 has observed in para 102, as under:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

81. Earlier all previous litigations were roaming Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 around issues whether FIR under Penal Code is maintainable or not in view of provisions available under Rule-22 read with Rule-56 of the MMDR Act, 1957, which was ultimately held by division bench of this Court that FIR is maintainable in terms of its order dated 09.02.2024.

82. Now, the prime and only consideration for adjudication left whether the offences as alleged committed under Indian Penal Code prima-facie made out or not against petitioners as raised through different FIRs which are the subject matters of aforementioned writ petitions.

For section 379 of the I.P.C.

83. From the basic definition of theft, it appears that following legal ingredients must be satisfied to make out a prima-facie case for theft:-

- (i) Intending to take dishonestly any movable property;
- (ii) From the possession of any person;
- (iii) Without that person's consent;
- (iv) And that property must move in order to such taking.

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

84. From perusal of FIRs, it appears that the allegation of theft was raised mainly for the reasons that on K-license site sand found in actual was less than that in Project Monitoring Unit (in short "PMU") Data. The FIRs itself suggest that the same was lodged between the month of September to December, 2021, wherein it is mentioned that the name of settlee, their address and sale price of sand were not mentioned. Stored sand were not found fenced or covered by tarpolene, therefore, the case was lodged against the petitioners under sections 378, 379, 406, 411, 420 of the IPC. The allegation as per FIR is not regarding illegal mining or any mining outside the mining plan. The allegation in FIR is also not regarding excessive mining. The mere allegation, which raised through FIRs that on the date of lodging of FIRs, the sand which was found there in actual was less than that in PMU data and it was not properly protected and covered, without mentioning any name, description and sale price of holders.

85. Before entering into the core issues, it would be apposite to mention following important aspects of present Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 criminal prosecutions, which was not even disputed by the respondents:-

(i) The settlement of sand ghats was given to petitioners since 2015 to 2019 in furtherance of auction given in the year 2015 for a period of five years.

(ii) The settlement of petitioners as aforesaid was extended time to time. Firstly from 01.01.2020 till 31.10.2020, secondly from 01.11.2020 till 31.12.2020, thirdly from 01.01.2021 till 31.03.2021 and finally fourth extension was given from 01.04.2021 till 30.09.2021.

(iii) It is admitted position that no such allegation were raised against petitioners during aforesaid period.

(iv) Petitioners surrendered their license on 1st May, 2021.

(v) Immediately after surrendering the license, the creation of E-challan was stopped. The reason behind surrendering E-challan that settlement was not financially viable for petitioners due to Covid-19 like situations and the ban of 14 wheeler trucks and the K-license sites from month of July, 2021, all sand ghats were taken back by the authorities and were handed over to local police stations and the Circle Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 Officers in Bhojpur and Patna respectively for care and protection. When petitioners surrender their settlement, the authorities concerned raised a demand for balance royalty of Rs.28,30,85,450/-. And further from Letter No.614 dated 04.09.2021, it appears that the Government started to sell the sand from K-license sites of the petitioners, before lodging FIRs.

86. Admittedly, much prior to date of lodging of FIRs i.e. 3 to 4 months, the petitioners were ousted from the possession of sand ghats, which was with them under settlement and after taking possession of those sand ghats, possession of same were given to local SHO and concerned Circle Officers/Mining department to keep sand securely. It appears that if there were no covering of tarpolene as alleged through FIRs or it was not fenced, it was the responsibility of the local SHO and the authorities with whom the sand in issue was in possession because for all such acts, the petitioners cannot be said to be liable once as possession was withdrawn over sand ghats. In such circumstances, non- displaying rate, name of settlee (petitioners) appears very obvious.

Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025

87. No doubt, illegal mining or excessive mining or mining beyond permitted area/map plan is theft. This proposition was confirmed by Hon'ble Supreme Court in Sanjay Case (supra) but, in present cases, there are no such allegations as per FIRs that the petitioners were involved in illegal and excessive mining or they excavated sand beyond permitted area. It is admitted position that Government started to sale sand from first week of September, 2021 from different K-sites, therefore, on the date of lodging of FIRs, for shortage of any sand stocks, respondents itself appears responsible.

88. Hence, with available allegation, it cannot be said that any prima facie offence qua theft appears to be made out against petitioners.

For Section 406 IPC Breach of Trust defined under section 405 of the IPC

89. It is an admitted position that much prior to lodging of FIR the sand was seized and entrusted to local police and government authorities i.e. since July, 2021, and therefore, there is no question to make out any case for the Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 offence committed under Section 405 of the IPC, which is punishable under section 406 of the IPC.

For Section 411 IPC:

90. From the FIRs, the allegation is not of nature which may suggest that petitioners at any point of time retains any property knowing or having reason to believe that same to be stolen property.

For Section 414 IPC:

91. The allegation of voluntarily assisting in concealing or disposing or making away sand is also not available against petitioners to make out a case under section 414 of the IPC.

For Section 420 IPC:

92. So far as cheating is concerned, petitioners were the lawful settlees of the sand ghats of three different districts like Patna, Bhojpur and Saran in furtherance of auction conducted in the year 2014 after paying the huge amount of royalty. Considering the nature of work admittedly on four different occasions from 01.01.2020 till Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 31.10.2020, again from 01.11.2020 till 31.12.2020, third time on 01.01.2021 till 31.03.2021 and fourth extension was given from 01.04.2021 till 30.09.2021, settlement was extended in favour of petitioners but when business of petitioners failed to remains financially viable any more, the same was surrendered in May, 2021, and thereafter, for the balance period Rs.28,30,85,450/- outstanding royalty was demanded by respondents. There is nothing on record which may suggest that petitioners from very inception intended to cheat the authorities concerned in their long tenure of settlement of six years.

93. Hence, by any prudent imagination, the case of cheating prima-facie not appears convincing against petitioners.

94. It is relevant to mention that vide order dated 15.05.2023 passed in Cr. Misc. No. 8423/2023, by which Hon'ble Court has granted anticipatory bail to the petitioner namely, Sadashiv Prasad, who was the Executive Chief Officer of M/s Aditya Multicom Pvt. Ltd. wherein the Director, Department of Mines categorically stated that the settlement Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 was surrendered on 01.05.2021 and after it, an inspection was carried out by the authorities concerned, wherein it is further stated that after the stocks were surrendered, steps were taken to sell those stocks through the Bihar State Mining Corporation and further after surrender the Officer- in-Charge of the concerned police station had been asked to provide security at the stock point and it was the responsibility of the officer-in-charge to ensure that no theft takes place. It was further stated that there may be a situation in which even the persons who were given the

responsibility to keep the stocks secured may have been involved.

95. The dispute also appears convincing civil in nature because for recovery of non-paid royalty amount for extended period, the concerned authority/respondents filed certificate case as mentioned in aforesaid paragraph No. 38 under the Bihar and Orissa Public Demand Recovery Act, 1914.

96. Taking note of aforesaid legal discussions, the allegation raised in the FIRs and the documents which are of Patna High Court CR. WJC No.387 of 2022 dt.16-05-2025 sterling nature as discussed in preceding paragraphs, this Court is of the view that no cognizable offence, as alleged, is made out against petitioners, and the case is squarely covered under the golden guiding principles No. 1, 2, 3, 5 & 7 as available through Bhajan Lal case (supra). Accordingly, all FIRs against petitioners are hereby quashed/set-aside with all its consequential proceedings, which are the subject matter of aforementioned writ petitions.

97. Consequent upon, all writ petitions stand allowed.

98. Let a copy of this judgment be sent to the court concerned.

(Chandra Shekhar Jha, J.) Sanjeet/-

AFR/NAFR	AFR
CAV DATE	19.04.2025
Uploading Date	17.05.2025
Transmission Date	17.05.2025