

IN THE HIGH COURT OF JUDICATURE AT PATNA

M/s Aditya Multicom Pvt. Ltd.

vs.

The State of Bihar & Ors.

Criminal Writ Jurisdiction Case No. 299 of 2022

(With Criminal Writ Jurisdiction Case No. 5 of 2022; Criminal Writ Jurisdiction Case No. 13 of 2022; Criminal Writ Jurisdiction Case No.290 of 2022; Criminal Writ Jurisdiction Case No. 292 of 2022; Criminal Writ Jurisdiction Case No. 295 of 2022; Criminal Writ Jurisdiction Case No. 305 of 2022; Criminal Writ Jurisdiction Case No. 311 of 2022; Criminal Writ Jurisdiction Case No. 312 of 2022; Criminal Writ Jurisdiction Case No. 320 of 2022; Criminal Writ Jurisdiction Case No. 417 of 2022; Criminal Writ Jurisdiction Case No. 428 of 2022; Criminal Writ Jurisdiction Case No. 436 of 2022; Criminal Writ Jurisdiction Case No. 484 of 2022; Criminal Writ Jurisdiction Case No. 494 of 2022; Criminal Writ Jurisdiction Case No. 554 of 2022; Criminal Writ Jurisdiction Case No. 611 of 2022; Criminal Writ Jurisdiction Case No. 619 of 2022; Criminal Writ Jurisdiction Case No. 634 of 2022)

16 May 2025

(Hon'ble Mr. Justice Chandra Shekhar Jha)

Issue for Consideration

- Whether Section 22 of the MMDR Act, 1957 read with Rule 56 of the 2019 Rules bars the registration of FIRs under IPC provisions against licensees involved in illegal sand mining.
- Whether illegal sale of sand without E-Challan issuance can be investigated under IPC provisions.
- Whether earlier judgments by co-ordinate Benches, particularly in Mithilesh Kumar Singh and Aditya Multicom Private Ltd., were correctly decided in view of later Supreme Court judgments.

Headnotes

The dispute appears convincing civil in nature, because for the recovery of the non-paid royalty amount for extended period, the concerned authority/respondents filed a certificate case. (Para 76); 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. All FIRs against petitioners are hereby quashed. (Para 77); All writ petitions stand allowed. (Para 78)

Case Law Cited

State (NCT of Delhi) v. Sanjay, **(2014) 9 SCC 772**; Jayant v. State of Madhya Pradesh, **(2021) 2 SCC 670**; Broad Son Commodities Pvt. Ltd. v. State of Bihar, **2018 (4) PLJR 706**; Mithilesh Kumar Singh v. State of Bihar, Cr.W.J.C. No. 540 of 2019; Aditya Multicom Pvt. Ltd. v. State of Bihar, Cr.W.J.C. No. 1233 of 2021; Chhotelal Choudhury & ors. vs. State of West Bengal reported in **2008 SCC OnLine Cal 348**; Sharat Babu Digumarti vs. Government (NCT of Delhi) reported in **(2007) 2 SCC 18**; Mohammad Wajid & Anr. Vs. State of U.P & Ors. Criminal Appeal No. 2340/2023; Uday Singh vs. The State of Bihar & Anr. Cr. Misc. No. 22626/2005; State of Orissa vs. Debendra Nath Padhi **[(2005) 1 SCC 568]**; Mariam Fasihuddin & Anr. Vs. State by Adugodi Police Station & Anr. **[2024 SCC Online SC 58]**; Randheer Singh Vs. State of U.P. **[(2021) 14 SCC 626]**; Mahmood Ali and Others Vs. State of U.P. & Anr. **[(2023) 15 SCC 488]**; State of Bihar vs. P.P. Sharma since reported in **AIR 1991 Sc 1260**; Mir Nagvi Askari Vs. CBI **[(2009) 15 SCC 643]**; 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. **[(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]**; Swaran1 Singh Vs. State **[(2008) 8 SCC 435]**; **Vijay Madan Lal Choudhary and Ors. Vs. Union of India and Ors. reported in 2022 SCC Online SC 929**

List of Acts

Indian Penal Code, 1860; Mines and Minerals (Development and Regulation) Act, 1957; Environment Protection Act, 1986; Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019

List of Keywords

Illegal sand mining; E-Challan; Section 22 MMDR Act; Theft; Environmental clearance

Case Arising From

Arising out of multiple FIRs relating to illegal sand mining registered across Aurangabad and Rohtas districts, including Barun PS Case No. 318/2021 and others.

Appearances for Parties

For the Petitioner/s: Mr. Madhav Khurana, Sr. Advocate

For the Respondent/s: Mr. Gyan Prakash Ojha, GA-VII

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 Mines: Mr. Naresh Dikshit, Advocate; Mr. Kumar Harshwardhan, AC to Spl. PP (Mines)

Headnotes Prepared by Reporter : Amit Kumar Mallick, Advocate

Judgment/Order of the Hon'ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.299 of 2022

Arising Out of PS. Case No.-318 Year-2021 Thana- BARUN District- Aurangabad

M/S. Aditya Multicom Pvt. Ltd., Through Its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh A Company incorporated under the provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata - 700069, Aged about 29 years (Male) Son of Shri Murali Singh, Resident of Village - Balihar, P.O. - Dullahpur, P.S.- Simari, District - Buxar.

... .. Petitioner

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, Aurangabad. Bihar
5. The Officer In Charge, Barun Police Station, Aurangabad. 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, Aurangabad Bihar
9. The Mines Inspector, District Mining Office, Aurangabad. Bihar

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 5 of 2022

Arising Out of PS. Case No.-406 Year-2021 Thana- DEHRI TOWN District- Rohtas

Aditya Multicom Pvt. Ltd., A Company Through Its Chief Executive Officer, Sadashiv Prasad Singh Son Of Maleshwar Singh Incorporated Under The Provision Of The Companies Act, 1956 Having Its Registered Office At 12, Waterloo Street, 2nd Floor, Kolkata- 700069. Resident Of 410, Ganeshalay Apartment, Jharudih, Near Carmel School, Matkuria, Dhanbad- Jharkhand, 826001

... .. Petitioner

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 (Town) 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 Dept., Govt. Of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
 - 8. The District Magistrate Cum Collector, Rohtas Bihar
 - 9. The Mines Inspector, District Mining Office, Rohtas Bihar
- Respondents

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with
Criminal Writ Jurisdiction Case No. 13 of 2022

Arising Out of PS. Case No.-141 Year-2021 Thana- TILAUTHU District- Rohtas

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M/S. Aditya Multicom Pvt. Ltd.,A Company Through Its Chief Executive Officer, Sadashiv Prasad Singh Son Of Maleshwar Singh Having Its Registered Office At 12, Waterloo Street, 2nd Floor, Kolkata-700069, Resident Of 410, Ganeshalay Apartment, Jharudih, Near Carmel School, Matkuria, Dhanbad- Jharkhand 826001

... .. Petitioner

Versus

- 1. The State Of Bihar, Through Principal Secy., 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, Tilhautu Police Station, Rohtas Bihar
 - 6. The Principal Secretary, Mines And Geology Dept., Govt. Of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
 - 7. The Assistant Director, Mines And Geology Dept., Govt. Of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
 - 8. The District Magistrate Cum Collector, Rohtas Bihar
 - 9. The Mines Inspector, District Mining Office, Rohtas Bihar
- Respondents

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with
Criminal Writ Jurisdiction Case No. 290 of 2022

Arising Out of PS. Case No.-82 Year-2021 Thana- RISIYAP District- Aurangabad

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M/S. Aditya Multicom Pvt. Ltd., Through Its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh A Company incorporated under the provisions of the Company Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata - 700069, Aged about 29 years (Male), Son of Shri Murali Singh, Resident of Village - Balihar, P.O.- Dullahpur, P.S.- Simari, District - Buxar.

... .. Petitioner

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, Aurangabad. Bihar
- 5. The Officer in Charge, Rishiyup Police Station, Aurangabad. 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, Aurangabad Bihar
- 9. The Mines Inspector, District Mining Office, Aurangabad. Bihar
- 10. The Mineral Development Officer, Aurangabad Bihar

... .. Respondents

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with

Criminal Writ Jurisdiction Case No. 292 of 2022

Arising Out of PS. Case No.-374 Year-2021 Thana- DAUDNAGAR District- Aurangabad

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M/s Aditya Multicom Private Limited, through its authorized Signatory, Pankaj Singh @ Pankaj Kumar a compan Incorporated aunder the Provisions of the Companies act, 1956 having its registered office at 12, Waterloo Street, 2ne Floor , Kolkata 700069, , Aged about 29 years (Male) son of shri Murali Singh, Resident of Village Balihar, P.O.- Dullahpur, P.s.- Simari, Distt.- Buxar.

... .. Petitioner

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, Aurangabad. Bihar
- 5. The Officer in Charge, Daudnagar P.s., Aurangabad. Bihar
- 6. The Principal Secretary, mines and Geology Deptt. Govt. of Bihar, Vikas Bhawan, Bailey Rd. Patna. Bihar
- 7. The Assistant Diretcor, Mines and Geology Deptt. Govt. of Bihar, Vikas Bhawan, Bailey Rd. Patna. Bihar
- 8. The Distt. Magistrate Cum Collector, Aurangabad. Bihar
- 9. The Mines Inspector, Distt. Mining Office, Aurangabad. Bihar
- 10. The Mineral Development officer, Aurangabad. Bihar

... .. Respondents

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with
Criminal Writ Jurisdiction Case No. 295 of 2022

Arising Out of PS. Case No.-481 Year-2021 Thana- DAUDNAGAR District- Aurangabad

M/s Aditya Multicom Pvt. Ltd. through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh A Company incorporated under the Provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd floor, Kolkata- 700069, through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh, aged about 29 years, son of Shri Murali Singh, resident of village Balihar, P.O. Dullahpur, P.S.- Simari, District- Buxar.

... .. Petitioner

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, Aurangabad. Bihar
5. The Officer in Charge, Daudnagar Police Station, Aurangabad. 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, Aurangabad Bihar
9. The Mines Inspector, District Mining Office, Aurangabad. Bihar
10. The Mineral Department Officer, Aurangabad. Bihar

... .. Respondents

with
Criminal Writ Jurisdiction Case No. 305 of 2022

Arising Out of PS. Case No.-264 Year-2021 Thana- BARUN District- Aurangabad

M/S. Aditya Multicom Private Limited Its Authorized Signatory, Pankaj Kumar @ Pankaj Kumar Singh Son of Shri Murali Singh A Company incorporated under provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata- 700069, Resident of Village- Balihar, P.O.- Dullahpur, P.S.- Simari, District- Buxar.

... .. Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna. Bihar, Patna.
2. The Principal Secretary, Home, Govt. of Bihar, Old Secretariat, Patna. Patna.
3. The Director General of Police, Bihar, Old Secretariat, Patna. Patna.
4. The Superintendent of Police, Aurangabad. Aurangabad.
5. The Officer In Charge, Barun Police Station, Aurangabad. Aurangabad.



- 6. The Principal Secretary, Mines and Geology Deptt., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Patna.
- 7. The Assistant Director, Mines and Geology Deptt., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna. Patna.
- 8. The District Magistrate cum Collector, Aurangabad. Aurangabad.
- 9. The Mines Inspector, District Mining Officer, Aurangabad. Aurangabad.
- 10. The Mineral Development Officer, Aurangabad. Aurangabad.

... .. Respondents

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with
Criminal Writ Jurisdiction Case No. 311 of 2022

Arising Out of PS. Case No.-47 Year-2021 Thana- NARALI KALA KHURD District-
Aurangabad

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M/s. Aditya Multicom Pvt. Ltd.,through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh A Company incorporated under the provision of the Companies Act, 1956, having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata- 700069, through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh, aged about 29 years (Male), Son of Shri Murli Singh, Resident of Village- Balihar, P.O. Dullahpur, P.S.- Simari, District- Buxar.

... .. Petitioner

Versus

- 1. STATE OF BIHAR THROUGH PRINCIPAL SECRETARY, HOME, GOVT. OF BIHAR, OLD SECRETARIAT, PATNA Bihar
- 2. The P)incipal 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, Aurangabad. Bihar
- 5. The Officer in Charge, Narari Kala Police Station- Aurangabad. 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, Aurangabad. Bihar
- 9. The Mines Inspector, District Mining Office, Aurangabad. Bihar

... .. Respondents

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with
Criminal Writ Jurisdiction Case No. 312 of 2022

Arising Out of PS. Case No.-202 Year-2021 Thana- NAVINAGAR District- Aurangabad

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M/s Aditya Multicom Pvt. Ltd. through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh A Company incorporated under the Provisions of The Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kalkata- 700069, through its Authorized Signatory, Pankaj



Singh @ Pankaj Kumar Singh, aged about 28 years (male) son of Shri Murali Singh, resident of village Balihar, P.O. Dullahpur, P.S.- Simari, District-Buxar.

... .. Petitioner

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, Aurangabad. Bihar
5. The Officer in Charge, Navinagar Police Station, Aurangabad. 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, Aurangabad. Bihar
9. The Mines Inspector, District Mining Office, Aurangabad. Bihar
10. The Mineral Development Officer, Aurangabad. Bihar

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 320 of 2022

Arising Out of PS. Case No.-176 Year-2021 Thana- BARUN District- Aurangabad

Aditya Multicom Private Limited through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh A Company incorporated under the Provisions of The Companies Act, 1956, having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata- 700069, through its Authorized Signatory, Pankaj Singh @ Pankaj Kumar Singh aged about 29 years (male) son of Shri Murali Singh, resident of Village- Balihar, P.O. Dullahpur, P.S.- Simari, District-Buxar.

... .. Petitioner

Versus

1. THE STATE OF BIHAR THROUGH PRINCIPAL SECRETARY HOME GOVT. OF BIHAR Old Secretariat, Patna.
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, Aurangabad. Bihar
5. The Officer in Charge, Barun Police Station, Aurangabad. 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, Aurangabad Bihar
- 9. The Mines Inspector, District Mining Office, Aurangabad. Bihar
- Respondents

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with

Criminal Writ Jurisdiction Case No. 417 of 2022

Arising Out of PS. Case No.-253 Year-2020 Thana- NAVINAGAR District- Aurangabad

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M/S. ADITYA MULTICOM PRIVATE LIMITED A company incorpotated under the Provisions of the Companies Act , 1956 having its Registered office at 12, Waterloo Street , 2nd Floor, Kolkata- 700069, through its Authorized Signatory, Mr. Suwant Kumar, Aged about 33 Years, Son of Mr. Tapeswar Singh, Resident of Saranarayan, P.s.- Dariyapur, Distt.- saran.

... .. Petitioner

Versus

- 1. The State of Bihar through Principal Secretary, Home, Govt. of Bihar, Old Secretariat , Patna. Bihar
- 2. The PPrincipal 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, Aurangabad. Bihar
- 5. The Officer in Charge, Navinagar P.S., Aurangabad. Bihar
- 6. The Principal Secretary, Mines and Geology Deptt. Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna. Bihar
- 7. The Assistan Director , Mines And Geology Deptt. , Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar.
- 8. The Distt. Magistrate Cum Collector , Aurangabad. Bihar
- 9. The Mines Inspector, Distt. Mining Officer, Aurangabad. Bihar
- 10. The Mineral Development officer, Aurangabad. Bihar
- Respondents

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with

Criminal Writ Jurisdiction Case No. 428 of 2022

Arising Out of PS. Case No.-125 Year-2021 Thana- DARIHAT District- Rohtas

=====

M/S. ADITYA MULTICOM PRIVATE LIMITED A company incorporated under the provisions of the companies Act, 1956 having its registered office at 12, waterloo Street, 2nd Floor, Kolkata- 700069, through its Authorized Signatory, Mr. Suwant Kumar , aged about 33 years, Son of Mr. Tapeswar Singh, resident of Village Saranarayan, P.S. Dariyapur, District - Saran.

... .. Petitioner

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, Rohtas. Bihar
 - 5. The officer In Charge, Darihat 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., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
 - 8. The District Magistrate cum Collector, Rohtas. Bihar
 - 9. The Mines Inspector, District Mining office, Rohtas. Bihar
- Respondents

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with

Criminal Writ Jurisdiction Case No. 436 of 2022

Arising Out of PS. Case No.-349 Year-2021 Thana- DEHRI TOWN District- Rohtas

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Aditya Multicom Private Limited A Company Incorporated under the Provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd floor , Kolkata-700069, through its Authorized Signatory, Mr. Suwant Kumar aged about 33 yr. son of Mr. Tapeswar Singh, Resident of Village Saranarayan, P.S.- Dariyapur, Distt.- Saran.

... .. Petitioner

- 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 (Town) 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. Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna. Bihar
 - 8. The Distt. Magistrate Cum collector , Rohtas. Bihar
 - 9. The Mnes Inspector, Distt. Mining Officer, Rohtas. Bihar
- Respondents

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with

Criminal Writ Jurisdiction Case No. 484 of 2022

Arising Out of PS. Case No.-954 Year-2020 Thana- DEHRI TOWN District- Rohtas

=====

ADITYA MULTICOM PRIVATE LIMITED A Company Incorporated under the Provisions of Companies Act, 1956 having its registered Office at 12, Waterloo Street, 2nd Floor, Kolkata- 700069, through its Authorized Signatory, Mr. Suwant Kumar, aged about 33 Years, S/o Mr. Tapeswar Singh, R/o village- Saranarayan, P.S.- Dariyapur, District- Saran

... .. Petitioners



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, Rohtas Bihar
- 5. The officer in Charge, Dehri Police Station, Rohtas 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, District Mining Office, Rohtas Bihar
- 8. The District Magistrate cum Collector, Rohtas Bihar
- 9. The Mines Inspector, District Mining Office, Rohtas Bihar

... .. Respondent

with

Criminal Writ Jurisdiction Case No. 494 of 2022

Arising Out of PS. Case No.-126 Year-2021 Thana- NASRIGANJ District- Rohtas

ADITYA MULTICOM PRIVATE LIMITED, THROUGH ITS AUTHORIZED SIGNATORY, MR. SUWANT KUMAR A company incorporated under the provisions of Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata- 700069, Son of Mr. Tapeswar Singh, resident of Village Saranarayan, P.S. - Dariyapur, District - Saran.

... .. Petitioner

Versus

- 1. The State of Bihar through Principal Secretary, Home, Government 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, Nasriganj 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., Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna. Bihar
- 8. The District Magistrate cum Collector, Rohtas. Bihar
- 9. The Mines Inspector, District Mining office, Rohtas. Bihar

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 554 of 2022



Arising Out of PS. Case No.-204 Year-2021 Thana- NAVINAGAR District- Aurangabad

M/S. ADITYA MULTICOM PRIVATE LTD., THROUGH AUTHORIZED SIGNATORY, PANKAJ SINGH @ PANKAJ KUMAR SINGH Son of Shri Murali singh A company incorporated under the provisions of the companies act, 1956 having its registered office at 12, waterloo Street, 2nd Floor, Kolkata- 700069, Resident of Village Balihar, P.O. Dullahpur, P.S.- Simari, District - Buxar.

... .. Petitioner

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, Aurangabad. Bihar
5. The officer In Charge, Navinagar Police Station, Aurangabad. 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, Aurangabad. Bihar
9. The Mines Inspector, District Mining officer, Aurangabad. Bihar
10. The Mineral Development officer, Aurangabad. Bihar

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 611 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- NTPC KHAIRA District- Aurangabad

ADITYA MULTICOM PRIVATE LIMITED A Company incorporated under the Provisions of the Comopanies Act 1956 having its registered office at 12, Waterloo Street , 2nd floor , Kolkata 700069, through its Authorized Signatory, Suwant Kumar , aged about 33 Years (Male), Son of Mr. Tapeswar Singh resident of Village - Saranarayan, P.s.- Dariyapur, Distt.- Saran.

... .. Petitioner

Versus

1. The State of Bihar throuth 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, Aurangabad. Bihar
5. The Officer in Charge, NTPC Police Station, Aurangabad. Bihar



- 6. The Principal Secretary, Mines and Geology Deptt. Govt. of Bihar, Vikash Bhawan, Bailey Rd. Patna. Bihar
- 7. The Assistant Director , Mines and Geology Deptt. Govt. of Bihar, Vikash Bhawan, Bailey Rd. Patna. Bihar
- 8. The Distt.- Magistrate cum Collector, Aurangabad. Bihar.
- 9. The Mines Inspector, District Mining Office, Aurangabad. Bihar
- 10. The Mineral Development officer, Aurangabad. Bihar

... .. Respondents

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with

Criminal Writ Jurisdiction Case No. 619 of 2022

Arising Out of PS. Case No.-38 Year-2022 Thana- NAVINAGAR District- Aurangabad

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ADITYA MULTICOM PRIVATE LIMITED. A Company incorporated under the provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata 700069, through its Authorized Signatory, Suwant Kumar, aged about 33 years (Male), S/o Mr. Tapeswar Singh, R/o village- Saranarayan, P.S.- Dariyapur, District- Saran

... .. Petitioner

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, Aurangabad Bihar
- 5. The Officer in Charge, Navinagar Police Station, Aurangabad 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 Dept. Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna Bihar
- 8. The District Magistrate cum Collector, Aurangabad Bihar
- 9. The Mines Inspector, District Mining Office, Aurangabad Bihar
- 10. The Mineral Development Officer, Aurangabad Bihar

... .. Respondents

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with

Criminal Writ Jurisdiction Case No. 634 of 2022

Arising Out of PS. Case No.-47 Year-2021 Thana- KACCHWA District- Rohtas

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ADITYA MULTICOM PRIVATE LIMITED, THROUGH ITS AUTHORIZED SIGNATORY, MR. SUWANT KUMAR A Company Incorporated under the provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata - 700069, Aged About 33 Years, Son of Mr. Tapeswar Singh, Resident of Village - Saranarayan, P.S.- Dariyapur, District - Saran.



... .. Petitioner

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, Rohtas. Bihar
- 5. The Officer In Charge, Kachhawan Police Station, Rohtas 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, Rohtas. Bihar
- 9. The Mines Inspector, District Mining Office, Rohtas. Bihar

... .. Respondents

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Appearance :

(In Criminal Writ Jurisdiction Case No. 299 of 2022 and its analogous matters)

For the Petitioner/s	:	Mr.Madhav Khurana, Sr. Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha, GA-VII
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 Mines	:	Mr.Naresh Dikshit, Advocate
		Mr.Kumar Harshwardhan, AC to Spl.PP(Mines)

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
C.A.V. JUDGMENT

Date : 16.05.2025

Heard Mr. Madhav Khurana, learned senior counsel appearing for the petitioners in all these writ applications, Mr. Gyan Prakash Ojha, learned G.A.-VII for the State, Mr. Naresh Dikshit, learned counsel for the Department of Mines and Mr. Zohaib Hossain, learned special counsel appearing for the Directorate of



Enforcement.

2. The petitioner(s) by filing these writ applications, seeking the following reliefs:

1.	Cr.W.J.C. No. 299 of 2022	(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Barun P.S. Case No. 318 of 2021 registered on 19.09.2021 for alleged offences under Sections379, 411 and 420 of the Indian Penal Code and Rule 11, 39, 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 in the nature of mandamus commanding the respondents 1 st Set not to take any coercive steps against the petitioner in pursuance of Barun P.S. Case No. 318 of 2021. (iii) The 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.
2.	Cr.W.J.C. No. 05 of 2022	(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Dehri (Town) P.S. Case No. 406 of 2021 registered on 03.08.2021 for alleged offences under section 379 and 409 of the Indian Penal Code and Rule 39 (2), 39(3), 56 (2) 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 Dehri (Town) P.S. Case No. 406 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.
3.	Cr.W.J.C. No.13 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Tilhautu P.S. Case No. 141 of 2021 registered on 03.08.2021 for alleged offences under section 379, 411 and 420 of the Indian Penal Code and Rule 11, 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Tilhautu P.S. Case No. 141 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.



4.	Cr.W.J.C. No. 290 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Rishiyup P.S. Case No. 82 of 2021 registered on 27.08.2021 for alleged offences under section 379, 411, and 420 of the Indian Penal Code and Rule 11,39,56 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Rishiyup P.S. Case No. 82 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.
5.	Cr.W.J.C. No.292 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Daudnagar P.S. Case No. 374 of 2021 registered on 06.07.2021 for alleged offences under section 379, 420 and 120 B of the Indian Penal Code and Rule 56/56(2) 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 Daudnagar P.S. Case No. 374 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.
6.	Cr.W.J.C. No. 295 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Daudnagar P.S. Case No. 481 of 2021 registered on 26.08.2021 for alleged offences under section 379, 411, and 420 of the Indian Penal Code and Rule 11, 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Daudnagar P.S. Case No. 481 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.
7.	Cr.W.J.C. No. 305 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Barun P.S. Case No. 264 of 2021 registered on 26.08.2021 for alleged offences under section 379, 411, and 420 of the Indian Penal Code and Rule 11,39,56 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Barun P.S. Case No. 264 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
8.	Cr.W.J.C. No. 311 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Narari Kala P.S. Case No. 47 of 2021 registered on 21.09.2021 for alleged offences under section 379, 411, and 420 of the Indian Penal Code and Rule 11,39,56 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Narari Kala P.S. Case No. 47 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.
9.	Cr.W.J.C. No. 312 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Navi Nagar P.S. Case No. 202 of 2021 registered on 26.08.2021 for alleged offences under section 379, 411, and 420 of the Indian Penal Code and Rule 11, 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Navi Nagar P.S. Case No. 202 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.
10.	Cr.W.J.C. No. 320 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Barun P.S. Case No. 176 of 2021 registered on 06.07.2021 for alleged offences under section 379, 420 and 120 B of the Indian Penal Code and Rule 56/ 56(2) 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 Barun P.S. Case No. 176 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.
11.	Cr.W.J.C. No. 417 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Navinagar P.S. Case No. 253 of 2020 registered on 03.12.2020 for alleged offences under section 379 and 420 of the



		Indian Penal Code and section 15 of the 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 Navinagar P.S. Case No. 253 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 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.
12.	Cr.W.J.C. No. 428 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Darihat P.S. Case No. 125 of 2021 registered on 06.08.2021 for alleged offences under section 379, 411, 420 and 409 of the Indian Penal Code; Rule 39 (2), 39(3) and 56(2) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019 and section 15 of the 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 Darihat P.S. Case No. 125 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.
13.	Cr.W.J.C. No. 436 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Dehri (Town) P.S. Case No. 349 of 2021 registered on 01.07.2021 for alleged offences under section 379 and 409 of the Indian Penal Code and Rule 39 (2), 39(3) and 56(2) 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 Dehri (Town) P.S. Case No. 349 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.
14.	Cr.W.J.C. No. 484 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Dehri Nagar (Indrapuri OP) P.S. Case No. 954 of 2020 on 04.12.2020 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 in the FIR 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. 954 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 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.
15.	Cr.W.J.C. No. 494 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Nasriganj P.S. Case No. 126 of 2021 registered on 06.08.2021 for alleged offences under section 379, 411 and 420 of the Indian Penal Code and Rule 11, 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Nasriganj P.S. Case No. 126 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.
16.	Cr.W.J.C. No. 554 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Navi Nagar P.S. Case No. 204 of 2021 registered on 27.08.2021 for alleged offences under section 379, 411, and 420 of the Indian Penal Code and Rule 11, 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of Navi Nagar P.S. Case No. 204 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.
17.	Cr.W.J.C. No. 611 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing NTPC Kaira P.S. Case No. 02 of 2022 registered on 05.02.2022 for alleged offences under section 379, 411, 420 and 34 B of the Indian Penal Code and Rule 11,43 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 in the nature of mandamus commanding the Respondents 1st Set not to take any coercive steps against the Petitioner in pursuance of NTPC Kaira P.S. Case No. 02 of 2022. 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.
18.	Cr.W.J.C. No. 619 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Navinagar P.S. Case No. 38 of 2022 registered on 03.02.2022 for alleged offences under section 379, 411 and 420 of the Indian Penal Code and Rule 11,43 and 56 of the Bihar Mineral (Concession, Prevention of legal 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 Navinagar P.S. Case No. 38 of 2022. 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.
19.	Cr.W.J.C. No. 634 of 2022	i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Kachhawan P.S. Case No. 47 of 2021 registered on 07.08.2021 for alleged offences under section 379, 411 and 420 of the Indian Penal Code and Rule 39 (2), 39(3) and 56(2) 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 Kachhawan P.S. Case No. 47 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.

Legal background of the case

3. Before adjudicating these matters, I would like to point out legal aspects of these matters.

4. After hearing the matters in detail, one of the learned co-ordinate Bench of this Court reserved the judgment on 28.09.2022, but, before the pronouncement of the 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 the 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** and **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 the 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 the Hon'ble Supreme Court in the case of **Sanjay (supra)** and **Jayant (supra)**, that no fault may be found with the lodging of the F.I.Rs. in these cases and the investigation into these cases need not be interfered with at this stage. The Court expressed its inability to agree with the views expressed by the learned co-ordinate Bench of this Court in the case of **Mithilesh Kumar Singh Vs. State of Bihar & Anr. [Cr.W.J.C. No. 540/2019]** and also in Cr.W.J.C. No. 1233 of 2021 (Aditya Multicom Private Ltd. Vs. The State of Bihar & Ors.) disposed of 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 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. The Hon'ble 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 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 decision of the Hon’ble Division Bench of this Court, the matters were specially assigned to this Court for hearing, where vide order dated 20.02.2025 this Court impleaded Enforcement Directorate (in short the “ED”) as one of the party-respondent by pointing out that the interest of Enforcement Directorate was protected by Hon’ble Supreme Court and it was allowed to inspect the materials of the scheduled offences even during the course of the investigation before the Special Court. Also, the ratio of **Vijay Madanlal Choudhary’ Case (supra)**, is the only guiding legal note available to the Court as far as case of PMLA Act is concerned, and, therefore, the Enforcement Directorate must be given at least an opportunity of hearing by impleading as a party-respondent. It is 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 a broader sense appears essential to unveil the truth of the present crime (scheduled offence), which is



the calyx of corruption, and as such, against the national socio-economic interest, upon which the case of PMLA, 2002 against the petitioners is founded.

FIRs relating to the petitioner Aditya Multicom Private Limited		
Case No.	FIR	Allegations
Cr.W.J.C. No. 299 of 2022	Barun P.S. Case No. 318 of 2021 registered under Sections 379, 411, 420 IPC read with Rule 11, 39, 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock on the K-License place 18000 CFT sand was found whereas in PMU Report 2265700 CFT sand was mentioned. It was noticed that the license holder has sold 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. This has caused revenue loss of Rs. 11,72,50,032/- to the Government exchequer.
Cr.W.J.C. No. 05 of 2022	Dehri Town P.S. Case No. 406 of 2021 registered under Section 379, 409 IPC, Sections 39(2), 39(3), 56(2) of Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock on the K-License places 162700 CFT sand was found whereas in P.M.U. report it was mentioned as 12377875 CFT. It was noticed that the license holder has sold sand without issuing prepaid E-Chalan. It is alleged that the license holder has sold the sand stealthily and the Register in form -J were not found duly filled up. This has caused revenue loss of Rs. 36,55,29,750/- to the Government exchequer.
Cr.W.J.C. No. 13 of 2022	Tilhautu P.S. Case No. 141 of 2021 registered under Sections 379, 411, 420 IPC, read with 11, and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock on the K-License place 173000 CFT sand was found whereas in P.M.U. report it has been mentioned 619400 CFT. it was noticed that the license holder has sold 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. This has caused revenue loss of Rs. 01,51,77,600/- to the Government exchequer.
Cr.W.J.C. No. 290 of 2022	Rishiyup P.S. Case No. 82 of 2021 registered under section 379,411, 420 IPC read with Rules 11, 39, 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock on the three K-License places total sand was zerp balance whereas in P.M.U. Report it has been mentioned as 183300 CFT Sand. It was noticed that the license holder has sold sand without issuing prepaid E-Challan. It is alleged that the license holder has sold 1,83,300 CFT sand stealthily a and the Register in form -J were not found duly filled up. This has caused revenue loss of Rs. 95,70,928/- to the Government exchequer.
Cr.W.J.C. No. 292 of 2022	Daudnagar P.S. Case No. 374 of 2021 registered under section 379, 420, 120B IPC read with Rules 56, 56(2) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock on the K-License places- at K Aurangabad/3/2021, 7790 M.T. less sand was found than the quantity mentioned in the P.M.U. Report, at K. Aurangabad 10/2021 no sand was found rather in P.M.U. report the stock was shown to be of 88389 M.T. Sand and further at non-renewed place no sand was found whereas in P.M.U. report it was shown as 23446 M.T. sand. Further at Bighat Ghat License place 300 meters inside the river no stock of sand was found whereas in P.M.U. report it was shown



		4230670 CFT and 3509565 CFT. The revenue loss amount is not mentioned in the written report.
Cr.W.J.C. No. 295 of 2022	Daudnagar P.S. Case No. 481 of 2021 registered under section 379/411, 420 IPC read with Rules 11, 39 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock at three K-License places 205350 CFT sand was found whereas in P.M.U. report it has been shown to be 708830 CFT. It was noticed that the license holder has sold 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. This has caused revenue loss of Rs. 02,59,22,752/- to the Government exchequer.
Cr.W.J.C. No. 305 of 2022	Barun P.S. Case No. 264 of 2021 registered under section 379/411, 420 IPC read with Rules 11, 39 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock at five K-License places 795445 CFT sand was found whereas in P.M.U. Report it has been shown 3798233 CFT sand, hence allegation is that the license holder has sold 3002788 CFT 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. This has caused revenue loss of 15,66,35,422/- to the Government exchequer.
Cr.W.J.C. No. 311 of 2022	Narari Kala Khurd P.S. Case No. 47 of 2021 registered under sections 379, 411, 420 IPC read with Rules 11, 39 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock at the two K-License places total 40850 CFT sand was found whereas in P.M.U. report it has been shown 3672775 CFT. It was noticed that the license holder has sold sand without issuing prepaid E-Challan. It is alleged that the license holder has sold 3631925 CFT sand stealthily and the Register in form -J were not found duly filled up. This has caused revenue loss of Rs. 18,94,51,208/- to the Government exchequer.
Cr.W.J.C. No. 312 of 2022	Navi Nagar P.S. Case No. 202 of 2021 registered under sections 379,411 420 IPC read with Rules 11, 39 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In course of Inspection of the Stock on the K-License place it was noticed that 13,37,050 CFT sand were more than the quantity mentioned in the report of PMU which allegedly shows that the license holder has illegally extracted the sand 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. This has caused revenue loss of Rs. 06,97,50,528/ respectively to the Government exchequer.
Cr.W.J.C. No. 320 of 2022	Barun P.S. Case No. 176 of 2021 registered under sections 379, 420, 120B IPC read with Rules 56 and 56(2) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case it is alleged that on the website the stock of sand was shown as 'Nil', in course of inspection it was found that there were 0497500 CFT sand at license place no. 20/20 and at another place being license place no. 22/20 again on the website the stock was showing 'nil' but in course of inspection 52500 CFT sand were found and further the license for the year 2020-21 was not renewed still the petitioner was involved in stocking of sand at that place which shows his intention to unlawful extracting sand and selling of the same stealthily.
Cr.W.J.C. No. 417 of 2022	Navinagar P.S. Case No. 253 of 2020 registered on 03.12.2020 for alleged offences under section 379 and 420 of the Indian Penal Code and section 15 of the Environment Protection Act 1986.	In this case it is alleged that sand was found to be excavated from an area having dimensions of 561 feet x 40 feet x 15 feet which are was outside the permissible area as mentioned in the environment clearance. It is alleged that same is violation of the environment norms and theft of government revenue which has



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		caused a loss of Rs. 57,82,690/-
Cr.w.J.C. No. 428 of 2021	Darihat P.S. Case No. 125 of 2021 registered under sections 379, 411, 420, 409 IPC read with Rules 39(2), 39(3), 56 (2) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case altogether five K-license spots were inspected. In course of Inspection of the Stock at the K-License places sand was found much less at different sites which show that the license holder has sold 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. This has caused revenue loss of Rs. 64,60,98,600/- respectively to the Government exchequer.
Cr.W.J.C. No. 436 of 2022	Dehri Town P.S. Case No. 349 of 2021 registered under sections 379, 409 IPC read with Rules 39(2), (3) and 56(2) of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case in course of Inspection of the Stock at the K-License place 33,65,300 CFT sand was not found which shows that the license holder has sold sand without issuing prepaid E-Challan. It is alleged that the license holder has sold stealthily.
Cr.W.J.C.No. 484 of 2022	Dehri Nagar (Indrapuri OP) P.S. Case No. 954 of 2020 on 04.12.2020 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	It is alleged that during course of inspection conducted on 04.12.2020, sand was found to be excavated from an area having dimension of 584 feet x 218 feet x 2.9 feet from which approximately 3,69,204 CFT sand was excavated by the settlee from outside the permissible area as mentioned in the environment clearance. It is alleged that same is violation of the environment norms and theft of government revenue which has caused a loss of Rs. 63,24,465/-.
Cr.W.J.C. No. 494 of 2022	Nasirganj P.S. Case No. 126 of 2021 registered under sections 379, 411, 420 IPC read with Rules 11, 39, 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case altogether six K-license spots were inspected. In course of Inspection of the Stock on the K-License places sand was found much less at different sites which show that the license holder has sold 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. This has caused revenue loss of Rs. 32,86,78,850/-to the Government exchequer.
Cr.W.J.C. No. 554 of 2022	Navi Nagar P.S. Case No. 204 of 2021 registered under sections 379, 411, 420 IPC read with Rules 11,39 of the Bihar Mineral (Concessions, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case three K-license spots were inspected. In course of Inspection of the Stock at the K-License places sand was found much less at different sites which shows that the license holder has sold 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. This has caused revenue loss of Rs. 13,05,06,913/- to the Government exchequer.
Cr.W.J.C.No. 611 of 2022	NTPC Kaira P.S. Case No. 02 of 2022 registered on 05.02.2022 for alleged offences under section 379, 411, 420 and 34 B of the Indian Penal Code and Rule 11,43 and 56 of the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case the informant, Mines Inspector submitted a written report to the SHO NTPC Kaira Police Station, alleging inter-alia that M/s Aditya Multicom Private Limited has stocked 5540650 CFT sand within 300 meters of Dhundhua sand ghat which was found to be present during the earlier inspection. However, no sand is present. It is, therefore, evident that the petitioner, its operator/employees have transported the same without the issuance of E-permit challan which has caused a loss of Rs. 28,89,54,898/-.



Cr.W.JC..No. 619 of 2022	Navinagar P.S. Case No. 38 of 2022 registered on 03.02.2022 for alleged offences under section 379, 411 and 420 of the Indian Penal Code and Rule 11,43 and 56 of the Bihar Mineral (Concession, Prevention of legal Mining, Transportation & Storage) Rules 2019	In this case, the informant Mines Inspector submitted a written report to the S.HO. Navinagar Police Station, alleging inter-alia that M/s Aditya Multicom Private Limited has stocked 2143600 CFT sand within 300 meters of Dengwar-B Sand ghat which was found to be present during the earlier inspection. However, no sand is present. It is, therefore, evident that the petitioner, its operator/employees have transported sand without the issuance of E-transit challan which has caused a loss of Rs. 11,17,98,740/-.
Cr.W.J.C. No. 634 of 2022	Kachhawan P.S. Case No. 47 of 2021 under Sections 379, 411, 420 IPC read with Rules 39(2), 39(3), 56(2) of the Bihar Mineral (Concessions, Prevention of Illegal Mining, Transportation & Storage) Rules 2019	In this case two K-license spot was inspected. In course of Inspection of the Stock on the K-License place sand was found much less at different sites which show that the license holder has sold 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. 78,57,400/- to the Government exchequer.

Brief background of the case

9.1. The Petitioner is a Private Limited Company registered under the provisions of the Companies Act, 1956, having its registered office at 12 Waterloo Street, Kolkatta, West Bengal and engaged in the business of sand mining and its sale.

9.2. In 2014, the Mining Department, State of Bihar initiated the process of settlement of sand ghats in the State of Bihar pursuant to which an advertisement was published for settlement of sand ghats by auction for various districts across the State of Bihar for a period of 5 years, i.e., from the year 2015 to 2019.



9.3. Pursuant to the said auction, the Petitioner, which was the highest bidder in the tender process, was granted settlement of the entire sand ghats in the districts of Rohtas and Aurangabad, which were auctioned as one unit for the period of 2015 – 2019. Agreements for the settlement of sand ghats in the said two districts were executed between the Mining Department, State of Bihar, and the Petitioner on 21.04.2015 and 24.07.2015.

9.4. The Sand Policy Notification No. 2887 dated 22.07.2014 and the tender documents dealing with the settlements of the Petitioner at Rohtas and Aurangabad provided the schedule of payment of yearly installment amounts. Therefore, the entire royalty amount was payable in advance to the Mining Department, State of Bihar. Accordingly, the same were duly paid by the Petitioner and received by the government authorities.

9.5. It was the Petitioner which brought forth the menace of illegal mining for the first time. The Petitioner wrote multiple complaints from time to time to the Mining Department and the Police about the illegal mining being



conducted at the ghats of Aurangabad and Rohtas, but no action was taken in this regard. The Petitioner had consistently been suffering tremendous loss due to illegal mining. Therefore, in 2019, the Petitioner, as a victim of illegal sand mining in the State of Bihar, filed CWJC No. 4671/2019 titled 'M/s Aditya Multicom Private Limited v State of Bihar &Ors.' before this Hon'ble Court, seeking directions from Government authorities for preventing illegal mining and transportation of sand. The same was disposed of vide Judgment dated 09.08.2019, with a number of directions to the authorities to curb the problem of illegal sand mining.

9.6. On 14.08.2019, the State of Bihar notified the Bihar Sand Mining Policy, 2019 along with the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 ("2019 Rules") which were published in the Bihar Gazette on 17.09.2019.

9.7. As per the terms of the Settlement Agreements of 2015, the term of the existing settlees,



including the Petitioner, was set to end on 31.12.2019. However, due to disputes of non-compliances with statutory requirements having arisen with potential new settlees, the State government invoked Rule 77(2) of the 2019 Rules on 27.12.2019, whereby the settlement period of existing settlees (including that of the Petitioner) was extended till 31.10.2020 or till the new potential settles obtained environment clearances, whichever was earlier. It was also decided that the settlement amount for 2019 shall be increased by 50%.

9.8. On 14.09.2020 the settlement term of the Petitioner for both districts, Rohtas and Aurangabad, was further extended by 2 months from 31.10.2020 to 31.12.2020. On 30.12.2020, the Mines and Geology Department, Government of Bihar issued a Notification whereby settlement period ending on 31.12.2020 was extended till 31.03.2021.

9.9. On 16.12.2020 the State of Bihar prohibited the use of 14-wheeler trucks for transportation of sand and stone chips vide Memo No. 8563/2020.



Consequently, the Petitioner who had already been suffering losses due to the rampant illegal mining in Bihar, suffered further losses in the months to follow (January – March 2021), since large percentage of sand was transported using such 14-wheeler trucks.

9.10. On 18.01.2021, Principal Secretary wrote a Letter to the District Magistrates seeking action to curb illegal mining.

9.11. Subsequently, the settlement term of the Petitioner was further extended on 2 occasions by a period of 3 and 6 months on 30.12.2020 and 31.03.2021 respectively till 30.09.2021.

9.12. On 20.04.2021, the Petitioner which had been suffering heavy losses on account of rampant illegal mining in Bihar, the ban on 14-wheeler trucks and the slowdown of business due to Covid-19, wrote to the competent Authorities under 2019 Rules i.e., the concerned Collectors of Aurangabad and Rohtas, for surrendering both its settlements.

9.13. On 29.04.2021, the Collectors of Rohtas



and Aurangabad districts rejected the Petitioner aforementioned request for surrendering the settlement, claiming alleged non- compliance with Rule 50(1) of the 2019 Rules which provides that surrender, if any, was to be done upon giving at least 6 months' notice. However, since the extension was for only 6 months, the Petitioner could not have given a notice of 6 months.

9.14. On 01.05.2021, the Collectors of Aurangabad and Rohtas wrote to the Director, Mining Department, State of Bihar, requesting that the stockist licenses of the Petitioner and permission for generation of its e-challans on the online portal for transport of sand from all the stock-hold areas of the Petitioner be suspended pending physical verification of the its stockhold areas.

9.15. Thereafter, two sets of physical verifications of the stockhold areas were conducted by the SDO, Daudanagar and SDO, Aurangabad in the unit in Auranagabad, who then forwarded their reports specifying the quantity of sand found at the inspected units to the



Collector, Aurangabad on 11.05.2021. The Circle Officer, Barun also conducted a verification of the sand stocked in the stockhold areas at Aurangabad and forwarded the report specifying the quantity of sand found at the inspected units to the SDO, Aurangabad on 09.05.2021.

9.16. Simultaneously, physical verifications were also conducted by SDO, Dehri along with Assistant, Director, Mining Department, State of Bihar of the stockhold areas of the unit in Rohtas. Thereafter, the said authorities submitted a report specifying the quantity of sand found at the inspected units to the Collector, Rohtas on 04.05.2021.

8.17. Vide Letter dated 08.07.2021, the Additional Collector, Aurangabad asked the Petitioner to pay the balance royalty of Rs. 95,78,50,800/- however, no allegation of any discrepancy in the physical verification or wrong doing was made.

9.18. On 10.07.2021, the Director, Mines and Minerals issued a Notice in Dainik Bhaskar asking the general public to buy sand directly from K-license holders.



However, on 17.08.2021, K-Licenses of the Petitioner stood cancelled.

9.19. On 04.09.2021, the Director, Mining Department, State of Bihar issued a direction to expedite the sale of sand seized from the Petitioner. Along with the letter, a report was enclosed specifying the quantum of sand seized from the cancelled K- license sites of the Petitioner in Aurangabad and Rohtas. It may be noted that even at this stage, the quantum of sand calculated was almost the same as what was earlier calculated and advertised in the newspaper on 10.07.2021.

9.20. Thereafter, on 16.09.2021, as per the FIR, upon physical verification the quantity of sand was recorded as 18000 cubic feet. However, according to the report provided by the PMU, the quantity of sand stored at licensed site is 2265700 cubic feet. Consequently, the FIR was registered.

9.21. The Petitioner preferred Cr. WJC No. 1233 of 2021 titled "M/s Aditya Multicom Private Limited, A company incorporated under the Provision of Companies



v The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Bihar” before this Hon’ble Court assailing the FIR 407/2021. This Hon’ble Court vide Judgement dated 07.04.2022 was pleased to quash the said FIR. 4.22. Around this time, one Sh. Sadashiv Prasad Singh, the then CEO of the Petitioner preferred a bail Application being Criminal Misc. No. 8423/2023 titled ‘Sadashiv Prasad Singh v The State of Bihar,’ before this Hon’ble Court the FIR 407/2021 where this Hon’ble Court vide Judgment dated 18.05.2023 was pleased to grant bail to him and observe the following:

- a. The Petitioner was a settee of the ghats at Aurangabad and Rohtas.
- b. The settlement was extended for the period 01.04.2021 to 30.09.2021 and the Petitioner paid the first installment of the settlement.
- c. The Petitioner surrendered the settlement with effect from 01.05.2021 and inspection was carried by the S.D.M, Daudnagar on 11.05.2021 in which 30,26,000/- CFT sand was found at the stock point.
- d. After the stock was surrendered, steps were taken to sell the stocks by the Mining Department through Bihar State Mining Corporation.
- e. The Mining Development Officer had directed 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 settlee.
- f. The aforesaid facts have not been disclosed in the



FIR.

g. The possibility of the officials being involved, who had been given the responsibility of securing the stocks at the settlement areas surrendered by the Petitioner on 01.05.2021, cannot be ruled out.

9.23. The Petitioner then preferred the aforesaid 18 Petitions. This Hon'ble Court, vide Judgment dated 04.11.2022 was pleased to refer the abovementioned 12 Writ Petitions to a Division Bench of this Hon'ble Court.

9.24. Vide Order dated 09.02.2024, the Hon'ble Division Bench of this Hon'ble Court was pleased to answer the reference made vide Judgement dated 04.11.2022 and remanded the matter back to the Single Judge for hearing and is now pending before this Hon'ble Court. Vide Judgment dated 09.02.2024, the Hon'ble Division Bench of this Hon'ble Court held that the Judgement dated 07.04.2022 of the Hon'ble Single Judge of this Hon'ble Court is "per incurium" as the earlier decision of this Hon'ble Court in Criminal Writ Jurisdiction Case No. 1901/2017 titled, "Broad Son Commodities Pvt. Ltd. & Ors. vs. The State & Anr." was not considered while rendering its decision.



10. Hence, the petitioner(s) seeking quashing of the petition as aforesaid.

Submission of the petitioner(s)

11. Mr. Madhav Khurana, learned senior counsel appearing for the petitioner(s) submitted that the FIR has been registered without disclosing any offence much less any cognizable offence and the same should be quashed on this ground alone.

12. Learned senior counsel submitted that during the physical verification at the site being K-license No. 07/2021 of the Licensee, the Petitioner herein, on 16.09.2021, the quantity of sand was recorded as 18000 cubic feet. However, according to the report provided by the PMU, the quantity of sand stored at licensed site was 2265700 cubic feet. Hence, licensee's employees/operators have illegally dispatched 2247700 cubic feet of sand without issuing prepaid e-challan and committed theft.

13. Mr. Khurana submitted that no offence U/s 379 IPC is made out in the present case. Section 379 IPC



states punishment for theft. S. 378 describes "theft" which reads 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."*

14. It is submitted that it is not a case of the Respondent that the Petitioner was not a valid Licensee. Furthermore, it is an admitted fact that the Licensee had to pay Royalty in advance and the sand found at the K-License site and mentioned in the report submitted by the PMU was royalty paid. Therefore, the sand has been paid for and belongs to the Petitioner. The petitioner cannot be accused of stealing the sand from himself. It is alleged that at the time of inspection on 16.09.2021, the Petitioner, its agents or its employees are not in possession of the K- License site and the same was under the possession of Mines Department with effect from 01.05.2023. It is alleged that it is not the allegation against the Petitioner, its agent or its employees that they entered the K-License sites and with the intention to



dishonestly move the sand, moved the sand out of the possession of the Mines officers without their consent, therefore, the Petitioner, its agents or its employees do not fall under the definition of theft under section 378 IPC.

15. Mr. Khurana submitted that in view of the fact that the sand is royalty paid and, therefore, belongs to the Petitioner, even if the Petitioner, its agents or its employees enters the K-License site and moves the sand whilst it is in possession of someone else, it will not constitute as theft.

16. It is submitted by Mr. Khurana that no offence U/s 420 IPC is made out. S. 420 IPC states as under:

"Section 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."

17. Mr. Khurana submits that as there is not even



a whisper of allegation of inducement against the Petitioner, its agent or employees. It is not the case of the Respondent that the Petitioner induced any one to deliver any property to anyone, therefore, the offence of cheating is not made out in the present case.

18. It is also submitted that assuming though not admitting that any irregularity or offence has been committed, the petitioner should have been given a reasonable opportunity of being heard before cancelling the License of the Petitioner as per Rule 47 of the Bihar Rules. Only after having given the opportunity, the State could have proceeded with the prosecution if any, required. Rule 47 of the Bihar Rule is states as under:

"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 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).



19. Mr. Khurana, further submitted that the invocation of the offences punishable under the IPC is as it is bad in law. It is trite law that if the offences alleged fall under the specific provision of any Special Act then inclusion of several sections of the IPC together with the provisions of the Special Act is illegal because the offences said to have been committed under the IPC are only ancillary to the offence committed under the Special law. In support of his submission, learned senior counsel relied upon the legal report of Hon'ble Calcutta High Court as available through **Chhotelal Choudhury & ors. vs. State of West Bengal** reported in **2008 SCC OnLine Cal 348** also relied upon the legal report of Hon'ble Supreme Court as available through **Sharat Babu Digumarti vs. Government (NCT of Delhi)** reported in **(2007) 2 SCC 18**.

20. It is further submitted that the Magistrate cannot take cognizance of the offences under the Bihar Rules because it is hit by the bar U/s 22 of the Mines and Minerals (Development and Regulation) Act, 1957



("MMDR Act"). It is submitted that the FIR invokes provisions of the Bihar Rules and the IPC for the same transaction. As stated above, none of the IPC offences are made out. Mr. Khurana pointed out that as for the offences under the Bihar Rules, the police could not have filed the chargesheet in the present case, only a Complaint could have been filed. It is alleged that the Bihar Rules were enacted in exercise of the powers conferred under S. 15 R/w S. 23C of MMDR Act, the same cannot be done as the bar U/s 22 of the MMDR Act would come into play. Section 22 of MMDR Act is reproduced, which reads as under:

"Section 22. Cognizance of offences - No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or the State Government."

21. It is submitted that as per the MMDR Act, where any person conducts mining activity in contravention of the provisions of the MMDR Act, the officer empowered and authorised under the Act shall make a Complaint before the Jurisdictional Magistrate and



the Jurisdictional Magistrate can take cognizance of the offence under the MMDR Act. The Police Officer however, cannot insist on the Magistrate taking the cognizance of an offence under the MMDR Act on the basis of the record submitted by the Police alleging contravention of the provisions of MMDR Act as the bar U/s 22 of the MMDR Act would come into play. In this regard, learned counsel referred the judgment of Hon'ble Apex Court in the case of **State (NCT of Delhi) vs. Sanjay** reported in **(2014) 9 SCC 772**.

22. It is submitted by the learned counsel for the petitioner that the aforesaid proposition of law has in fact been reiterated by the Division Bench of this Hon'ble Court in its Order dated 09.02.2024 while answering the Reference made by the Single Bench of this Hon'ble Court. The relevant part extracted as under:

“21..... ... Thus, it can be said that for violation of the provisions of MMDR Act and the Rules framed thereunder, if the FIR is filed and the case is investigated by the police agency and thereafter the police agency filed report, on the basis of the said report, court cannot take cognizance and the bar under Section 22 of the MMDR Act would be



attracted.”

23. It is submitted by the petitioner that the findings of the Division Bench of this Hon’ble Court in the Order dated 09.02.2024 cannot be read against the Petitioner and the same is also evident from the paragraphs of the judgment as stated below:

“21(1) 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 with an intent to remove dishonestly those minerals from the possession of the State, he is liable to be punished for committing such offence under Sections 378 and 379 of the Indian Penal Code. Hence, in such cases, FIR can be lodged for violation of the provisions of MMDR Act and the Rules framed thereunder as well as under Sections 378 and 379 of the Indian Penal Code. It is open for the police authority to investigate the same and thereafter file the report before the concerned Magistrate Court and on the basis of the said report, the concerned Magistrate can take cognizance. Hence, bar under Section 22 of MMDR Act would not be applicable.”

24. Also, it is pointed out by Mr. Khurana that it is not the allegation against the Petitioner that he is not a valid Licensee. It has also been reiterated by the Division



Bench of this Hon'ble Court in Paragraph 24 of its judgement that it is not a dispute that the Petitioner was a valid Licensee and the allegation against the Petitioner is not of having removed the stock without issuing challan. Therefore, this finding also cannot be read against the Petitioner. Mr. Khurana points out to the second finding of the Hon'ble Division Bench on this point as:

"(ii) Where a licence, lease or permit has been issued by the authority in favour of a person under the provisions of MMDR Act and the Rules framed thereunder for excavation of sand, gravel and other minerals and thereafter if it is found that the said person has excavated the sand from the area which is not covered under the lease, licence or permit or mining plan then also FIR under Sections 378 and 379 of the Indian Penal Code can be lodged alongwith the provisions of MMDR Act and the Rules framed thereunder. In such case also, it is open for the police authority to investigate and thereafter file report before the Magistrate Court. Further. on the basis of the same, it is open for the Magistrate to take cognizance. Hence, bar under Section 22 of MMDR Act would not be attracted."

25. Mr. Khurana submitted that it is not the allegation against the petitioner that it was engaged in



the excavation of sand from the area which is not covered under the License. The allegation only pertains to the shortage of sand in the stocklist site and therefore, this finding can also not be read against the Petitioner. The Third finding of the Division Bench of this Hon'ble Court in Order dated 09.02.2024 is as under:

"(iii) Where the allegation is that for the storage of sand for the company for the purpose of transportation of sand by the stockist/licensee, the same is required to be done through departmental pre-paid transport challan. However, if without prepaid challan, transportation of sand/mineral is done, the same can be said to be illegal. Further, because of the said activity, if unlawful loss is caused to the State and if it is found that unlawful gain is made by the licensee in a given facts, the ingredients of Sections 406 and 420 of the Indian Penal Code are also attracted and, therefore, FIR can be lodged under the aforesaid provision and also for violation of provisions of of MMDR Act and the Rules framed thereunder. In such a case also, it is open for the police to investigate and thereafter file a report before the Magistrate. Further, bar under Section 22 of the MMDR Act would not be attracted."

26. It is submitted by learned counsel that it was not the allegation that the sand was stored for the



purposes of transportation and the same was transported without pre-paid challan. It has in fact been reiterated by the Division Bench of this Hon'ble Court in Paragraph 24 that it is not a dispute that the Petitioner was a valid Licensee and the allegation against the Petitioner is not of having removed the stock without issuing challan.

27. It is pointed out by learned senior counsel that the learned Division Bench of this Hon'ble Court vide Order dated 09.02.2024 affirmed the Judgement dated 07.04.2022 wherein the learned Single Judge was pleased to quash of the FIR 407/2021 registered against the Petitioner.

28. It is further submitted that learned Single Judge of this Hon'ble Court was pleased to quash FIR 407/2021 registered against the Petitioner. The learned Division Bench even so held that Judgment dated 07.04.2022 of the learned Single Judge is "***per incurium***" as the earlier decision of this Hon'ble High Court in **Criminal Writ Jurisdiction Case No. 1901/2017** titled, "**Broad Son Commodities Pvt.**



Ltd. &Ors. vs. The State &Anr." was not considered while rendering its decision, affirming the Judgement dated 07.04.2022 of the learned Single Judge in the facts of the case thereby upholding the quashing of FIR 407/2021. It is relevant to reproduce **para 24** of the Order dated 09.02.2024, which reads as under:

"24. In the case of M/s Aditya Multicom Private Limited (supra), another learned Single Judge of this Court has not considered the decision rendered by another learned Single Judge in the case of Broad Son Commodities Pvt. Ltd. (supra). The learned Single Judge has, after considering the decision rendered in the case of Mithilesh Kumar Singh (supra) has quashed and set aside the FIR which was lodged for violation of the provisions of MMDR Act and the Rules framed thereunder as well as under Sections 379, 411 and 420 of the Indian Penal Code. In the said case, it was observed that it is not in dispute that the petitioner was a valid licensee and the allegation against the petitioner is not of having removed the stock without issuance of challan. Thus, it appears that in the facts of the said case, the learned Single Judge has passed the aforesaid order.

29. It is also submitted by Mr. Madhav Khurana that the allegations in the FIR are vague and fails to disclose not only the ingredients of any offence but even basic particulars of the alleged offence committed. The FIR does not disclose as to when was the offence



committed. It simpliciter records that during the physical verification at the site being K- license No. 07/2021 of the Licensee, the Petitioner herein, on 16.09.2021, the quantity of sand was recorded as 18000 cubic feet. However, according to the report provided by the PMU, the quantity of sand stored at a licensed site is 2265700 cubic feet. Hence, the licensee's employees/operators have illegally dispatched 2247700 cubic feet of sand without issuing a prepaid e-challan and committed theft. However, when and how the offence took place has not been mentioned and is therefore vague and is liable to be quashed. In support of his submission, learned senior counsel relied upon the legal reports of the Hon'ble Supreme Court as available through **Mohammad Wajid & Anr. Vs. State of U.P & Ors. Criminal Appeal No. 2340/2023 arising out of SLP(Crl.) No. 10656/2022** and the legal report of this Hon'ble Court as available through **Uday Singh vs. The State of Bihar & Anr. Cr. Misc. No. 22626/2005.**

30. It is submitted that the FIR also does not



disclose that the Petitioner was not even in the possession of the K- Licence site when the inspection took place. It was in fact in the possession of the officers of the Mines Department. Also, that the FIR even fails to disclose the fact that the Petitioner had surrendered its licence and on 04.09.2021, Director, Mines and Geology asked the officers to expedite the sale of sand from K-Licenses sites, therefore, it is evident from the aforesaid that the Mines and Geology Department had already started selling the sand before the inspection took place. It is alleged that if the Mines and Geology Department had already started selling the sand before the inspection took place on 16.09.2021, then the sand found at the K-License site is bound to be less than the quantity mentioned in the Report by the PMU.

31. While concluding his argument, Mr. Khurana, learned senior counsel relied upon the legal report of Hon'ble Supreme Court as available through **State of Orissa vs. Debendra Nath Padhi [(2005) 1 SCC 568]; Mariam Fasihuddin & Anr. Vs. State by**



Adugodi Police Station & Anr. [2024 SCC Online SC 58]; Randheer Singh Vs. State of U.P. [(2021) 14 SCC 626]; Mahmood Ali and Others Vs. State of U.P. & Anr. [(2023) 15 SCC 488].

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

32. It is submitted by Mr. Naresh Dikshit, learned counsel appearing for the Department of Mines and the aforesaid respondents, that the documents introduced by way of different Annexures by the petitioners to show their innocence are neither part of FIRs nor part of charge-sheet, as in that view of the matter, those documents/annexures cannot be looked into in present proceeding under Sections 226 and 227 of the CrPC, as those documents can only be introduced as evidence and the 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 the 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 allegation made in the FIR makes 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 the 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 an end to the process of investigation and trial provided under the law.

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

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

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



35. Upon so.

36. Mr. Johaib 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').

37. At the outset, it is submitted by Mr. Zohaib Hossain that the submissions raised as to lodge present FIRs appear to violate Article 21 of the Constitution of India *qua* petitioners cannot be accepted that mere lodging of an FIR can be taken as an act of violation of a fundamental right as available to citizens contained in Article 21 of the Constitution of India.

38. 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 facts 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 the 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 within 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 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."

39. 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, J. in Cr.W.J.C. No.1910 of 2017 and Cr.W.J.C. No.10 of 2018, as aforesaid, was challenged before the Hon'ble Supreme Court in SLP (Crl.) No. 10602 and 10596 of 2018, which was dismissed as withdrawn.

40. 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 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.

41. In this context, it is submitted that while hearing the 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 were not brought to the knowledge of the court as it seems from the order, whereas the counsel was same.

42. 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 the Hon'ble Patna High Court and vide



order dated 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.

43. 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 judgment of this Court was not cited even as the petitioner was the same and one



and 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...."

44. 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.

45. 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*."

46. 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 Bihar Cr.W.J.C. No. 1597 of 2024 in connection with



Dehri Town PS 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 the Hon'ble Division Bench of this Court dated 09.02.2024.

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

48. It is submitted by Mr. Hossain that this is a case of illegal mining beyond the permissible limit or beyond the territory of settlement/mining without a mineral concession. It is pointed out that excess mining will not absolve the settlee 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 **Rs. 210,91,76,276/-**



(Rupees Two hundred Ten Crores ninety one Lakhs seventy-six Thousand Two Hundred Seventy-six) to the State due to illegal mining.

49. 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]**.

49.1. 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. [(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.

50. Concluding his 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 Choudhary and Ors. Vs. Union of India and Ors.** reported in **2022 SCC Online SC 929.**

CONCLUSION

51. It would be apposite to reproduce the relevant annexures for better understanding of the matter, which are as under:

ANNEXURE- '4'

समाहरणालय, औरंगाबाद
(खनन शाखा)
पत्रांक510/ख0.

प्रेषित,

मेसर्स आदित्य मल्टीकॉम प्रा. लि.,
12, वाटरलू स्ट्रीट, 2nd फ्लोर,
कोलकता – 700069,

औरंगाबाद, दिनांक 29/4/2021

विषय :- औरंगाबाद जिलान्तर्गत दिनांक- 31.03.2021 को समाप्त हो रही सम्पूर्ण बालूघाटों की बंदोबस्ती को दिनांक 01.04.2021 से 30.09.2021 तक अवधि विस्तार के फलस्वरूप औपबधिक कार्यादेश के संबंध में।

प्रसंग :- विभागीय पत्रांक 987/एम0, पटना, दिनांक- 31.03.2021 एवं विभागीय अधिसूचना



सं0— 986 /एम0, पटना, दिनांक — 31.03.2021.

उपर्युक्त विषयक प्रासंगिक पत्र एवं विभागीय अधिसूचना विभागीय अधिसूचना सं0— 935 /एम0 पटना, दिनांक 31.03.2021 द्वारा दिनांक— 31.03.2021 को समाप्त हो रही बालूघट की बंदोबस्ती को खनिज (समानुदान, दाखिल खनन परिवहन एवं भंडारण निवारण) नियमावली, 2019 के नियम 77 (2) के तहत दिनांक 01.04.2021 से 30.09.2021 अथवा नये बालू बंदोबस्तधारियों को पर्यावरणीय स्वीकृति उपरांत कार्यादेश निर्गत करने की तिथि जो पहले हो, तक पंचाग वर्ष 2020 की बंदोबस्ती राशि पर 50 प्रतिशत वृद्धि के साथ अवधि विस्तार के फलस्वरूप आपके द्वारा प्रथम किस्त की निर्धारित राशि मो0 — 19,15,70,160 /— (उन्नीस करोड़ पन्द्रह लाख उत्तर हजार एक सौ साठ) रु0 के विरुद्ध निर्धारित तिथि तक कुल :- 10,00,00,000 /— (दस करोड़) रु0 जमा करते हुए शेष बकाया राशि 10 दिनों के अंदर जमा करने का अनुरोध किया गया है। आपके उक्त अनुरोध के आलोक में निम्नांकित शर्तों एवं बंधेजों पर बालू उत्तोलन हेतु औपबधिक कार्यादेश निर्गत किया जाता है :-

1.देय बन्दोबस्ती राशि का भुगतान:-

क्र0 सं0	किस्त	किस्त की राशि	भुगतान की तिथि
1	प्रथम किस्त	19,15,70,160 /—	दिनांक — 31.03.2021
2	द्वितीय किस्त	38,31,40,320 /—	दिनांक — 30.04.2021
3	तृतीय किस्त	38,31,40,320 /—	दिनांक — 31.05.2021
4	चतुर्थ किस्त	19,15,70,160 /—	दिनांक — 30.06.2021

2. जी.एस.टी. के रूप में राशि वाणिज्य कर विभाग को भुगतान करना होगा। खनन् कार्यालय में जी.एस.टी. भुगतान का प्रमाण—पत्र प्रत्येक किस्त के साथ देना होगा। साथ ही वाणिज्य—कर विभाग, बिहार, पटना के पत्रांक — 2403, दिनांक 16.08.2019 के अनुपालन में आपूर्ति की गई करदेय मद में अधिमान्य कर का भुगतान किस्त की राशि के साथ करना होगा।
3. आयकर की मद 2.06 प्रतिशत की राशि का भुगतान प्रत्येक किस्त के साथ करना होगा।
4. डी.एम.एफ. की राशि बन्दोबस्ती राशि का 2 प्रतिशत राशि जिला खनिज फाउन्डेशन के पदनाम से भुगतेय बैंक ड्राफ्ट के माध्यम से प्रत्येक किस्त के साथ जमा करना होगा।
5. देय स्टाम्प शुल्क एवं निबंधन शुल्क का भुगतान कर एवं ससमय एकरारनामा दाखिल कर निबंधन कराना होगा।
6. बालू खनन की अधिकतम गहराई एवं क्षेत्र :- नदी तल से खनन् की अधिकतम गहराई उचित बेच रचना के साथ किसी समय उक्त बिन्दु पर अखनित तल स्तर से तीन मीटर अथवा निम्नतम जल स्तर में जो कम हो, से अधिक नहीं होगी।
7. बालू का खनन SEIAA/ DEIAA द्वारा प्राप्त पर्यावरणीय स्वच्छता में निर्धारित क्षेत्र से ही करना होगा एवं तदनुसार उत्खनन के क्षेत्र का सीमांकन कराना होगा तथा उत्खनन् के दौरान कायत रखना होगा।

8. बालू उत्खनन के प्रतिबंधित क्षेत्र:-

- i. किसी रेलवे पुल एवं राज्य / राष्ट्रीय उच्च पथ के अन्तर्गत पुल से 300 मीटर तथा सामान्य पुल से 100 मीटर दोनों तरफ के क्षेत्र।
- ii. किसी भी सार्वजनिक स्थल तथा शमशान घाट/ धार्मिक स्थल आदि से 50 मीटर दूरी तक का क्षेत्र।
- iii. नदी के दोनों किनारे से 05 मी0 का क्षेत्र दोड़कर ही बालू का खनन् कार्य किया जाएगा।
- iv. डेम/वीयर/सिंचाई हेतु निर्मित अन्य Structure के Upstream एवं Downstream की ओर 100 मीटर का क्षेत्र।
- v. बाढ़ नियंत्रण तटबंधों से 46 मीटर दूरी तक का क्षेत्र। इसके बाद 46 मी0 से 61 मी0 तक का क्षेत्र 180 मीटर गहराई तक तथा 61 मीटर से 91 मीटर की दूरी तक के क्षेत्र में 240 मीटर तक की गहराई तक खनन् अनुमान्य होगा।
- vi. सिंचाई हेतु निर्मित आउटडोर के स्तर को River Bed के स्तर के बराबर रखना होगा यानि River Bed का स्तर आउटलेट के स्तर से नीच कदापि नहीं होगा।
- vii. इनफिल्ट्रेशन बेल /इनटेक बेल के चारों ओर बालू उत्खनन नहीं किया जाएगा। जिन नदियों से सिंचाई हेतु पईन निःसृत है उस क्षेत्र में सीनीय जल संसाधन विभाग के अभियंता से अनापत्ति प्रमाण—पत्र प्राप्त कर बालू का उत्खनन् किया जाएगा ताकि पईन सिंचाई प्रणाली प्रभावित नहीं हो।

9. सामान्य शर्तें :-

- i. आपको बालू के परिवहन हेतु वाहन के चालक को खनन् विभाग के द्वारा मुद्रित/सत्यापित ट्रांजिट पास/ई—चालान निर्गत करना होगा, जिसमें वसूली गई राशि भी अंकित होगी।
- ii. नदी में बालू निकाल कर नदी तट से 300 मीटर अलग बालू भण्डारण करने पर अलग से स्ऑकिस्ट लाईसंस लेना होगा।
- iii. नदी से उत्तोलित बालू के लिए विहित प्रपत्र में प्रत्येक माह ही मासिक विवरणी अनुवर्ति माह की 15 तारीख तक जिला खनन् कार्यालय, औरंगाबाद में दाखिल करना होगा।
- iv. बालू के उत्पादन एवं प्रेषण के लिए पंजी संधारित करनी होगी।



- v. नदी से बालू निष्कासन / प्रेषण के स्थल पर साईन बोर्ड लगाना होगा, जिसमें बन्दोबस्तधारी कानाम-पता, बन्दोबस्ती अवधि, स्थानीय प्रबंधक का नाम-पता एवं विक्रय मूल अंकित होगा।
- vi. आपको बिहार खनिज (समानुदान, अवैध खनन्, परिवहन एवं भण्डारण निवारण)नियमावली, 2019 के नियमों का पालन करना होगा।
- vii. श्रम कानूनों के प्रावधानों के अनुसार आपको श्रमिकों की सुविधा के लिए विश्राम शेड, पेय जल आदि की व्यवस्था करनी होगी।
- viii. आपको समाहर्ता द्वारा बालूघाटों के संचालन के संबंध में जनहित में दिए गए अन्य निर्देशों का पालन करना होगा।
- ix. खनिज की अनुपलब्धता,मार्ग व्यवधान, सीमाना से संबंधित कोई व्यवधान अथवा अन्याय कारण से उत्तोलन में बाधा उत्पन्न होने पर सरकार द्वारा कोई क्षतिपूर्ति देय नहीं होगा।
- x. बालूघाट संचालन के नियम एवं शर्त यथा-खनन् योजना, पर्यावरणीय स्वच्छता प्रमाण-पत्र की शर्तों का भी अनिवार्य रूप से पालन करना होगा।
- xi. विभिन्न प्रकार के वाहनों पर लदे बालू खनिज को तिरपोलिन से ढँक कर ही प्रेषण करना होगा।
- xii. वाहनों के लदान क्षमता के अनुसार ही वाहनों पर बालू खनिज लोड कराने तथा तदनुसार परिवहन चालान में बालू की मात्रा अंकित कराना सुनिश्चित कराना होगा।
- xiii. बालूघाटों से गीला बालू को बालूघाट क्षेत्र में सेकेंडरी लोडिंग हेतु भण्डारित करने की व्यवस्था करना होगा तथा किसी भी परिस्थिति में गीला बालू का प्रेषण किसी प्रकार के वाहनों से नहीं करना होगा।
- xiv. बन्दोबस्ती राशि के समतुल्य बालू की मात्रा से अधिक बालू निष्कासन किए जाने पर अधिक निष्कासित बालू की मात्रा के लिए अतिरिक्त स्वामित्व का भुगतान आपको करना होगा।
- xv. आपको सरकारी कार्य हेतु विभागों को प्राथमिकता के आधार पर लघु खनिज बालू उपलब्ध कराना होगा।
- xvi. आपको बालू उत्तोलन कार्य में संलग्न सहयोगी, व्यक्तियों/प्रबंधकों की सूची पूर्ण पता एवं फोटो के साथ खनन् कार्यालय को उपलब्ध कराना होगा।
- xvii. उपर्युक्त शर्तों का पालन नहीं करने पर कारण पृच्छा निर्गत कर बन्दोबस्ती रद्द करने की कार्रवाई की जा सकेगी।
- xviii. समाहर्ता को सरकार के हित में सुनवाई का मौका देकर तर्कसंगत आदेश पारित करते हुए बन्दोबस्ती रद्द करने का अधिकार होगा।
- xix. सरकार द्वारा समय-समय पर निर्गत निर्देशों एवं बालूघाट संचालन से संबंधित नियमों का पालन करना होगा।
- XX. Eco Sensitive zone/Wild life sanctuary से प्रभावित क्षेत्रों में किसी भी प्रकार का खनन् कार्य प्रतिबंधित रहेगा।
- XXi. बन्दोबस्ती समाप्ति के पूर्व नदी तट से 300 मीटर के अन्दर भण्डारित बालू को हटा लेना होगा अन्यथा भण्डारित खनिज (बालू) सरकार की सम्पत्ति मान कर उसका निष्पादन किया जाएगा।

आपके आवेदन दिनांक – 31.03.2021 मे।

10. समाहर्ता, औरंगाबाद एवं खनिज विकास पदाधिकारी, औरंगाबाद द्वारा समय-समय पर निर्गत आदेश/निर्देश का अनुपालन कर अनुपालन प्रतिवेदन एक सप्ताह के अन्दर दाखिल करना होगा। अनुपालन प्रतिवेदन से प्रतिकूल स्थिति पाये जाने पर नियमानुसार विधि-सम्मत कार्रवाई की जाएगी।

xxii.

ह/-	ह/-	ह/-
खनिज विकास पदाधिकारी,	अपर समाहर्ता,	जिला पदाधिकारी

ज्ञापांक510...../ख0 , औरंगाबाद, दिनांक 31/03/2021

प्रतिलिपि-

1. प्रधान सचिव, खान एवं भूतत्व विभाग, बिहार, पटना को सूचनार्थ।
2. निदेशक, खान एवं भूतत्व विभाग, बिहार, पटना को सूचनार्थ।
3. आयुक्त के सचिव, मगध प्रमण्डल, गया को सूचनार्थ।
4. पुलिस अधीक्षक, औरंगाबाद को सूचनार्थ।

ह/-	ह/-	ह/-
खनिज विकास पदाधिकारी,	अपर समाहर्ता,	जिला पदाधिकारी

Annexure - '6'

Mob. No 9431121979

Aditya MULTICOM PRIVATE LIMITED

Shashi Kr. Singh. Near Hotel Vandana, Shivganj, Pali



Road, Dehri-On-Sone-821307

Ref. No

To,

Date :20/04/21

The District Magistrate,
Aurangabad**Sub: Regarding surrender of our settlement, of
sand ghats in the District of Aurangabad**

Respected Sir,

We are the settlee of Sand Ghats for the districts of Aurangabad and we are conducting sand mining strictly in accordance with the terms of settlement. However, on account of certain factors, the entire business has become unviable and we are currently facing a serious economic crisis.

Firstly, as you are aware that for the last one year the entire country has been facing the brunt of COVID 19 pandemic. The effect of COVID 19 pandemic has been unprecedented and it has tremendously affected the people of our country, including our economy. During the last year we witnessed the largest ever contraction in GDP during the second quarter of FY 2020-2021 at -24%. It was being estimated that F.Y 2021-2022 may present modest recovery figures. However, even the conservative estimates of recovery have now been disrupted by the prevailing second wave of COVID 19 pandemic.

On account of resurgence of the pandemic, all economic activity has again been hit, including construction. The demand for construction material (sand and stones) during the last year was sluggish and we had to suffer huge loss in our business. Right when the demand was picking up, we are now again faced with the same grim situation, The impending lockdown and/or restrictions, has further reduced the demand for sand to almost nil.

When we had accepted the recent extension of settlement till 31.10.2021, we had not anticipated the magnitude of second wave of COVID 19 pandemic. However, now we are not able to cope up with the effects of the pandemic.

Secondly, the state government had come out with resolution contained in memo no. 8563 dated 16.12.2020 whereby the use of trucks with 14 or more wheels was prohibited for transport of sand and stone chips. On account of this prohibition, we have suffered a huge loss during the months of January, February and March 2021 since a large percentage of sand is transported using such trucks. Thereafter, relaxation was given in transport of sand on trucks of more than 14 wheels at the project of SJVN Thermal Pvt Limited at Chausa, Buxar, vide resolution dated 2414 dated 31.03.2020. However, even that project has not materialized. On account of this also the business has become unviable for us, considering the huge amount of royalty which is paid to the government.

Thirdly, the entire district of Aurangabad is facing the menace of illegal mining. Since illegally excavated sand is



cheaper in comparison to that being sold by us, we are not able to sell sufficient quantum of sand to meet our royalty related obligation.

On account of the above-mentioned factors, the entire business of excavating sand and selling the same, has become completely unsustainable for us. We are not able to generate sufficient revenue to meet our royalty related obligations and may become defaulters.

Considering the above factors, we are surrendering our settlement of sand ghats in the district of Aurangabad with immediate effect.

Seeking your kind cooperation.

Thanking you,

Copy to:

The Mineral Development Officer, Aurangabad

Yours faithfully,

For M/s. ADITYA MULTICOM PVT. LTD.
For Aditya Multicom Pvt. Ltd.
Pankaj Singh
Authorized signatory”

Annexure - '7'

समाहरणालय, औरंगाबाद

(खनन शाखा)
पत्रांक627 / ख0.

प्रेषित,

मेसर्स आदित्य मल्टीकॉम प्रा. लि.,
द्वारा— शशि कुमार सिंह,
वंदना होटल के समीप
पाली रोड, डेहरी-ऑन-सोन,
रोहतास,सासाराम।

E-mail

औरंगाबाद, दिनांक 29 / 4 / 2021

विषय :- औरंगाबाद जिलान्तर्गत सम्पूर्ण बालूघाटों की बन्दोबस्ती का प्रत्यार्पण
(Surrender)करने के संबंध में।
प्रसंग :- आपका पत्रांक – शून्य, दिनांक 20.04.2021

उपर्युक्त विषयक प्रासंगिक पत्र में आपके द्वारा औरंगाबाद जिलान्तर्गत प्राप्त बालू घाटों की बन्दोबस्ती को तत्काल प्रभाव से छोड़ने का उल्लेख किया गया है। इस संबंध में कहना है कि वर्तमान में आपके द्वारा औरंगाबाद जिलान्तर्गत सम्पूर्ण बालूघाटों से बालू के उत्खनन एवं प्रेषण का कार्य किया जा रहा है। आपको विदित हो कि बिहार खनिज (समानुदान, दाखिल खनन परिवहन एवं भंडारण निवारण) नियमावली, 2019 के नियम 50 (1), जो निम्नवत है:-

“कोई खनिज समानुदान ारक यथास्थिति, खनन पट्टा अवधि के किसी भी समय समाहर्त्ता को छः महीने का नोटिस देते हुए कारोबार छोड़ने का विकल्प दे सकेगा। फिर भी, यह विकल्प वैसे खनिज समानुदान धारक के लिए नहीं है जिन्होंने अपनी बोली की रकम या बन्दोबस्ती की रकम का भुगतान नहीं किया है अथवा खनन पट्टे की किसी शर्त का उल्लंघन किया है।”
के आलोक में बन्दोबस्ती प्रत्यार्पण (Surrender) करने की प्रक्रिया में उपरोक्त नियमावली का अनुपालन नहीं किया गया है।

अतः बिहार खनिज (समानुदान, दाखिल खनन परिवहन एवं भंडारण निवारण) नियमावली, 2019 के नियम 50 (1) के तहत आपके आवेदन दिनांक 20.04.2021 के पूर्व देय है, को सापेक्षिक आयकर एवं डी.एम.एफ की राशि के साथ स-समय जिला खनन कार्यालय, औरंगाबाद में जमा करना सुनिश्चित करेंगे। अन्यथा आपके विरुद्ध बिहार खनिज (समानुदान, दाखिल खनन परिवहन एवं भंडारण निवारण) नियमावली, 2019 के नियम 47 के तहत विधि-सम्मत कार्रवाई की जाएगी, जिसके जिम्मेवार आप स्वयं होंगे।



ह0 / -
जिला पदाधिकारी
औरंगाबाद।

Annexure - '8'

समाहरणालय, औरंगाबाद
(खनन शाखा)
पत्रांक635 / ख0.

प्रेषित,
जिला पदाधिकारी,
औरंगाबाद।
सेवा में,
निदेशक,
खान एवं भूतत्व विभाग,
बिहार, पटना।

विषय:- औरंगाबाद जिलान्तर्गत बालू भण्डारण अनुज्ञप्ति (Stock licence) पर तत्काल प्रभाव से रोक लगाने के संबंध में।

महाशय,
उपर्युक्त विषय के संबंध में कहना है कि औरंगाबाद जिलान्तर्गत बालू बन्दोबस्तधारी मेसर्स आदित्य मटीकॉम प्रा0 लि0 द्वारा दिनांक 01.04.2021 से 30.09.2021 तक की बालू बन्दोबस्ती की विस्तारित अवधि हेतु द्वितीय किस्त की निर्धारित राशि जमा नहीं किया गया है। इस संबंध में यहां उल्लेखनीय है कि बालू बन्दोबस्तधारी द्वारा बन्दोबस्ती प्रत्यार्पण (Surrender) हेतु पत्र प्रेषित किया गया है, जिसके आलोक में संबंधित वस्तुस्थिति से विभाग को पूर्व में ही अवगत कराया जा चुका है। बन्दोबस्तधारी द्वारा बन्दोबस्ती राशि नहीं जमा किया जा सकता है। इसी क्रम में यह भी उल्लेखनीय है कि बन्दोबस्तधारी द्वारा वर्तमान में जिलान्तर्गत विभिन्न स्थानों पर बालू भण्डारण अनुज्ञप्ति प्राप्त की गई है, जिसका पुनः भौतिक सत्यापन कराया जाना आवश्यक है तथा भौतिक सत्यापन कराये जाने तक सभी भण्डारण अनुज्ञप्तियों पर रोक लगाना अपेक्षित है।
अतः उपरोक्त वर्णित परिप्रेक्ष्य में अनुरोध है कि बालू भण्डारण अनुज्ञप्तियों की भांतिया सत्यापन कराये जाने तक मेसर्स आदित्य मटीकॉम प्रा0 लि0 द्वारा संचालित सभी भण्डारण अनुज्ञप्तियों के User ID पर तत्काल प्रभाव से रोक लगायी जाए।

ह0 / -
01.05.2021
खनिज विकास पदाधिकारी
औरंगाबाद

विश्वासभाजन
ह0 / -
01.05.2021
जिला पदाधिकारी
औरंगाबाद

ज्ञापांक-635 / ख0 औरंगाबाद, दिनांक 01.05.2021

प्रतिलिपि:- मेसर्स आदित्य मटीकॉम प्रा0 लि0 को सूचनार्थ एवं निदेश दिया जाता है कि बालू भण्डारण अनुज्ञप्ति सीलों के भौतिक सत्यापन होने तक बालू का उठाव/प्रेषण पूर्णतः प्रतिबंधित रहेगा।
प्रतिलिपित- अनुमण्डल पदाधिकारी औरंगाबाद/दाउदनगर एवं खनिज विकास पदाधिकारी औरंगाबाद को निदेशदिया जाता है कि बन्दोबस्तधारी मेसर्स आदित्य मटीकॉम प्रा0 लि0 द्वारा सत्यापित सभी बालू भण्डारण अनुज्ञप्ति सीलों भौतिक सत्यापन कर प्रतिवेदन तीन दिनों के अन्दर अधोहस्ताक्षरी को उपलब्ध कराना सुनिश्चित करेंगे।

ह0 / -
01.05.2021
खनिज विकास पदाधिकारी
औरंगाबाद

ह0 / -
01.05.2021
जिला पदाधिकारी
औरंगाबाद

Annexure - '9'

कार्यालय, अनुमण्डल पदाधिकारी, दाउदनगर (औरंगाबाद)
पत्रांक133 / गो0

प्रेषित,
अनुमंडल पदाधिकारी,
औरंगाबाद।
सेवा में,
जिला पदाधिकारी
औरंगाबाद।



दाउदनगर, दिनांक 11.05.2021

विषय:— दाउदनगर अनुमंडल अन्तर्गत बालू भंडारण अनुज्ञप्तिधारियों के भंडार का भौतिक सत्यापन संबंधित प्रतिवेदन का प्रेषण।

प्रसंग— भवदीय ज्ञापांक — 635/ख, दिनांक 01.05.2021

महाशय,

उपर्युक्त विषयक प्रासंगिक पत्र के आलोक में सुचित करना है कि खनिज विकास पदाधिकारी, औरंगाबाद द्वारा दूरभाष के माध्यम से यह बताया गया है कि वे कोरोना पोजिटिव हैं, इसलिए अधोहस्ताक्षरी द्वारा अकेले ही आज दिनांक 11.05.2021 को दाउदनगर एवं केरा घाटों पर अवस्थित बालू भंडारण का भौतिक निरीक्षण किया गया। भौतिक सत्यापन के दौरान पाये गये भंडार से संबंधित प्रतिवेदन निम्न प्रकार है:—

क्र०	अनुज्ञप्तिधारी कोड	अनुज्ञप्तिधारी का नाम	अनुज्ञप्तिधारी का पता	अनुज्ञप्तिधारी संख्या	अवशेष स्टॉक (मै0 टन में)
1	0302830328	मे० आदित्य मल्टीकॉम प्रा० लि०	केरा	K-Aurangabad/3/2021	33,100 (लगभग)
2	0302830324	मे० आदित्य मल्टीकॉम प्रा० लि०	दाउदनगर	K-Aurangabad/5/2021	15,300 (लगभग)
3	0302830327	मे० आदित्य मल्टीकॉम प्रा० लि०	नियर , दाउननगर	K-Aurangabad/4/2021	105750 (लगभग)

कृपया सादर सूचनार्थ समर्पित।

विश्वासभाजन
ह० /—
अनुमंडल पदाधिकारी,
दाउदनगर।

ज्ञापांक—133/गो०, दिनांक 11.05.2021

प्रतिलिपि— खनिज विकास पदाधिकारी, औरंगाबाद को सूचनार्थ एवं अग्रेतर कार्रवाई हेतु प्रेषित।

ह० /—
अनुमंडल पदाधिकारी,
दाउदनगर।

Annexure - '12'

समाहरणालय, औरंगाबाद
(खनन शाखा)
पत्रांक635/ख०.(अस्पष्ट)

प्रेषित,

मेसर्स आदित्य मल्टीकॉम प्रा. लि.,
स्थायी पता — 12, वाटर लू स्ट्रीट,
2रा तल, कोलकाता (प० बंगाल)
वर्तमान पता — द्वारा शशि कुमार सिंह,
नियर वंदना होटल, शिवगंज—पाली रोड,
डेहरी—ऑन—सोन, रोहतास, सासाराम।

औरंगाबाद, दिनांक — 9 — 2021

विषय:— पंचाग वर्ष, 2021 के लिए बन्दोबस्ती की अवधि विस्तार के पश्चात् शेष बकाया राशि जमा करने के संबंध में मॉग—पत्र।

उपर्युक्त विषयक औरंगाबाद जिलान्तर्गत आपको पूर्व से बन्दोबस्त जिले के सम्पूर्ण बालूघाटों की बन्दोबस्ती का वर्ष, 2021 में खान एवं भूतत्व विभाग, बिहार, पटना के निदेशानुसार अवधि विस्तार (दिनांक 01.04.2021 से 30.09.2021 तक)के पश्चात् कार्यालय द्वारा आपके पक्ष में शर्तों एवं बंधेजों के साथ कार्यादेश निर्गत किया गया था। उल्लेखनीय है कि उक्त अवधि के लिए आपके द्वारा चार किस्तों में कुल बन्देबस्ती राशि मो०— 1149420960 /— (एक अरब चौदह करोड़ चौरानवे लाख बीस हजार नौ सौ साठ) रु० का भुगतान करते हुए दिनांक 01.05.2021 से प्रभाव से बन्दोबस्ती के प्रत्यार्पण संबंधी आवेदन अधोहस्ताक्षरी के कार्यालय में जमा किया गया। उल्लेखनीय है कि बिहार बालू खनन नीति, 2019 की कंडिका— 16 मके तहत बन्दोबस्तधारी को बन्दोबस्ती छोड़ने से पूर्व सम्पूर्ण बन्दोबस्ती राशि जमा करने का प्रावधान है, अर्थात् आपके द्वारा मो०— 957850800 /— (पन्चानवे करोड़ अठत्तर लाख पचास हजार आठ सौ) रु०भुगतान सापेक्षिक डी० एम० एफ० एवं आयकर की राशि के साथ किया जाना है, जो कि आपके द्वारा अभी तक नहीं किया गया है।

अतः उक्त के आलोक में आपके आदेश दिया जाता है कि निर्धारित समयावधि के अन्दर शेष बकाया राशि मो० — 957850800 /— (पन्चानवे करोड़ अठत्तर लाख पचास हजार आठ सौ) रु०भुगतान सापेक्षिक डी० एम० एफ० एवं आयकर की राशि के साथ करना सुनिश्चित करें। अन्यथा की स्थिति में राजस्व वसूली की दिशा में आपके विरुद्ध विधि सम्मत कार्रवाई करते हुए नीलाम—पत्र वाद दायर किया जाएगा, जो आपको मान्य होगा।





Patna High Court CR. WJC No.299 of 2022 dt.16-05-2025
69/100

विभागीय नियंत्रण कक्ष के दूरभाष संख्या- 0612 – 2215350, 2215351 पर सम्पर्क किया जा सकता है।

PR. 003426(Mines) 2021-22

(गोपाल मीणा)
निदेशक, खान

FIR in Cr. WJC No. 299 of 2022

जिला खनन कार्यालय, औरंगाबाद।

पत्रांक1316/एम0 औ0 दिनांक 19.09.2021

प्रेषक,
थानाध्यक्ष,
बारुण थाना, औरंगाबाद।
विषय- प्राथमिकी दर्ज करने के संबंध में।

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि आपके थानान्तर्गत मेसर्स आदित्य मल्टीकॉम प्रा0 लि0 को निर्गत 'K' अनुज्ञप्ति सं0 – 07/2021 का पता कमशरु मौजा- खेमदा, प्रखण्ड- बारुण, थाना- बारुण, जिला – औरंगाबाद, खाता सं0- 69 खेसरा सं0 – 01 के सीलों पर उपलब्ध बालू की मात्रा का भौतिक सत्यापन दिनांक 16.09.2021 को किया गया। भौतिक सत्यापन के दौरान उक्त वर्णित 'K' अनुज्ञप्ति स्थल पर बालू की मात्रा 18000 घनफीट अंकित है। जबकि पी0 एम0 यू0 द्वारा उपलब्ध कराये गये प्रतिवेदन के अनुसार भण्डारित अनुज्ञप्ति स्थलों पर मात्रा 2265700 घनफीट बालू का भण्डारण है। उक्त से स्पष्ट होता है कि अनुज्ञप्तिधारी के कर्मियों / संचालकों द्वारा बिना प्रीपेड ई-चालान निर्गत कर चोरी से 2247700 घनफीट बालू का अवैध प्रेषण किया गया है। साथ ही किसी भी व्यक्ति द्वारा भौतिक सत्यापन के समय प्रपत्र – 'ज' में संधारित पंजी प्रस्तुत नहीं किया गया।

उक्त कृत्य कार्य अनुज्ञप्ति के कडिका 1, 12, 13 एवं 15 का स्पष्ट उल्लंघन है तथा बिहार खनिज (समानुदान, दाखिल खनन परिवहन एवं भंडारण निवारण) नियमावली, 2019 के नियम 11, 39 का उल्लंघन एवं उक्त नियम 56 के तहत दण्डनीय है। उक्त 'K' अनुज्ञप्ति संख्या, से 11,72,50,032/- रुपये की क्षति राज्य सरकार को हुई है, जो वसूलनीय है।

अतः अनुरोध है कि उक्त अनुज्ञप्तिधारी मेसर्स आदित्य मल्टीकॉम प्रा0 लि0 के विरुद्ध उपरोक्त वर्णित नियम तथा IPC के नियम की धारा 379, 411, 420 एवं IPC के अन्य सुसंगत धाराओं के तहत प्राथमिकी दर्ज करने की कृपा की जाय।

Registered Barun P.S. case no. 318/021 dt. 19/09/2021 U/s 379/411/420 IPC & Bihar Miniral (Concession, Illegal Mining' Transportation, Provesoty of Storage) Rule 2019, Sec 42/39/56 and S.I. Dinanath Singh will please investigate the case .
Sd/ illegible
19.9.21
S.H.O., Barun P.S.
Aurangabad.

विश्वासभाजन
ह0/- 19.09.2021
आजाद आलम खान
निरीक्षक, औरंगाबाद
पिता- म0 शरीफ,
ग्राम-निरजलहॉ
थाना-गोपालपुर,
जिला-गोपालगंज।

FIR in Cr. WJC No. 5 of 2022

जिला खनन कार्यालय, रोहतास (सासाराम)।

पत्रांक2147/एम0 सासागाम दिनांक 03.08.2021

सेवा में,
थानाध्यक्ष,
इन्द्रपुरी ओ. पी. थाना,
रोहतास।
विषय- प्राथमिकी दर्ज करने के संबंध में।

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि आपके थानान्तर्गत मेसर्स आदित्य मल्टीकॉम प्रा0 लि0 की अनुज्ञप्ति सं0 – K-ROHTAS/02/2021 का पता मौजा- सिकरीया, मौजा सं0- 00, प्रखण्ड- डिहरी, थाना- इन्द्रपुरी ओ0 पी0 जिला – रोहतास, खाता सं0 – 13, 15, खेसरा सं0- 264, 167, K-ROHTAS/03/2021 का पता मौजा- सिकरीया, मौजा सं0- 00, प्रखण्ड- डिहरी, थाना- इन्द्रपुरी ओ0 पी0 जिला – रोहतास, खाता सं0 – 17 खेसरा सं0-



225, 231, 245, 246, 272, 273, 274, 280, 281, 282, K-ROHTAS/15/2021 का पता मौजा— सिकरीया, मौजा सं०— 00, प्रखण्ड— डिहरी, थाना— इन्द्रपुरी ओ० पी० जिला — रोहतास, एवं K-ROHTAS/14/2019 का पता मौजा— कटार, मौजा सं०— 00, प्रखण्ड— डिहरी, थाना— इन्द्रपुरी ओ० पी० जिला — रोहतास, खाता सं० — 79 खेसरा सं०— 1093, 1123, के स्थलों परउपलब्ध बालू की मात्रा का भौतिक सत्यापन जिला खनन कार्यालय, रोहतास, सासाराम के पत्रांक 1986/खनन, दिनांक 15.7.2021 के आलोक में किया गया। भौतिक सत्यापन के दौरान उक्त चारों अनुज्ञप्ति स्थलों पर बालू की मात्रा 1627000 घनफीट पाया गया। जबकि पी० एम० यू० द्वारा उपलब्ध कराये गये प्रतिवेदन के अनुसार उक्त चारों भण्डारित अनुज्ञप्ति स्थलों पर 12377875 घनफीट बालू का भण्डारण है। उक्त से स्पष्ट होता है कि अनुज्ञप्तिधारी के कर्मियों / संचालकों द्वारा बिना प्रोपेड ई—चालान निर्गत कर चोरी से बालू का विक्रय कर दिया गया है। साथ ही किसी भी व्यक्ति द्वारा प्रपत्र — ‘ज’ में संधारित पंजी का भौतिक सत्यापन के क्रम में प्रस्तुत नहीं किया गया है। उक्त सभी भण्डारित बालू स्थलों का Fencing एवं भण्डारित बालू का तारपोलिन से ढका हुआ नहीं पाया गया।

उक्त कृत्य कार्य अनुज्ञप्ति के कडिका 1, 12, 13 एवं 15 का स्पष्ट उल्लंघन है तथा बिहार खनिज (समानुदान, दाखिल खनन परिवहन एवं भंडारण निवारण) नियमावली, 2019 के नियम 11, 39 का उल्लंघन एवं उक्त नियम 56 के तहत दण्डनीय है। उक्त चारों अनुज्ञप्ति संख्या, से 36,55,29,750 /— रुपये की क्षति राज्य सरकार को हुई है, जो वसूलनीय है।

अतः अनुरोध है कि उक्त अनुज्ञप्तिधारी के प्राधिकृत कर्मियों/ संचालकों के विरुद्ध उपरोक्त वर्णित नियम तथा IPC के नियम की धारा 379, 411, 420 एवं IPC के अन्य सुसंगत धाराओं के तहत प्राथमिकी दर्ज करने की कृपा की जाय।

शशिकांत पाठक ह० /— गवाह 1. शशिकांत पाठक पिता— श्री कमलेश पाठक ग्राम मोहनपुर थाना— दिनारा। 2. धीरेन्द्र कुमार सिंह ह० /— पिता—भरत सिंह ग्राम— चाउर, थाना करगहर, जिला रोहतास	स्थायी पता:— पिता—श्री श्याम नंदन प्रसाद यादव ग्राम मठियापुर, पो० — जमसौत, थाना—शाहपुर जिला—पटना।	विश्वासभाजन ह० /— अस्पष्ट 03.08.2021 (अजय कुमार) खान निरीक्षक, जिला खान कार्यालय, रोहतास, सासाराम।
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Forwarded to SHO Dehri (T) P.S. to registger a case U/s – 379/409 IPC & 39(2)/ 39(3)/ 56(2) of Bihar Mineral (Concession, Illegal Mining’ Transportation, Provesoty of Storage) Rule 2019. ASI Sanjay Kumar Thakur will be please investigate this case
Sd/ illegible
03.08.2021
S.H.O.,
Indrapuri O.P.

Registred SHO Dehri (T) P.S. case No. 406/21 dated 03.08.2021 U/s – 379/409 IPC & 39(2)/ 39(3)/ 56(2) of Bihar Mineral (Concession, Illegal Mining’ Transportation, Provesoty of Storage) Rule 2019. ASI Sanjay Kumar Thakur will be please investigate this case
Sd/ illegible
03.08.2021
S.H.O.,
Dehri (T) P. S.

52. It would also be 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, 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 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 Settlee 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 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 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.”

53. 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 the 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 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.

54. 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 licence 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 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].

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.”

55. 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 reads 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 weighment 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.

(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 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 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 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;
 - (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.

56. It would be 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 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.....”

57. 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 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.”

58. 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, 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 immoveable 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.

59. It would be further apposite to reproduce para



27 of Randheer Singh case (supra), which reads as

under:

"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 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, 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 323IPC.”

60. 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.

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.”

61. And, finally it would be apposite to reproduce the ratio of **Bhajan Lal case (supra)** what Hon’ble Apex Court 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.”

62. Earlier, all previous litigations were roaming around issues whether FIR under penal code is maintainable or not in view of provisions available under Rule 22 read with Rule 56 of 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.

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



For section 379 of the I.P.C.

64. From the basic definition of theft, it appears that the 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.

65. From perusal of FIRs, it appears that the allegation of theft was raised mainly for the reasons that on the K-license site, sand found in actual was less than Project Monitoring Unit (in short, "PMU") Data. The FIRs itself suggests that the same was lodged between the months of September and December, 2021, wherein it is mentioned that the name of settlee, their address and the sale price of sand were not mentioned. Stored sand was 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 the FIR is also not regarding excessive mining. The mere allegation, which was raised through FIRs that on the date of lodging of FIRs, the sand which was found there in actual was less than PMU data and it was not properly protected and covered, without mentioning any name, description and sale price of holders.

66. Before entering into the core issues, it would be apposite to mention the following important aspects of the present criminal prosecution, which was not even disputed by the respondents:-

(i) The settlement of sand ghats was given to petitioners from 2015 to 2019 in furtherance of the 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 i.e. from 01.01.2020 till 31.10.2020, secondly from 01.11.2020 till 31.12.2020 thirdly on 01.01.2021 till 31.03.2021, and finally fourth extension was given from 01.04.2021 till 30.09.2021.



(iii) It is an admitted position that no such allegation were raised against petitioners during the 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 the E-challan was that the 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 the month of July, 2021, all sand ghats were taken back by the authorities and were handed over to local police stations and the Circle Officers in Bhojpur and Patna, respectively for care and protection. When petitioners surrendered their settlement, the authorities concerned raised a demand for balance royalty of Rs. 95,78,50,800/-. 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.

67. Admittedly, much prior to the date of lodging of FIRs i.e., 3 to 4 months, the petitioners were ousted from the possession of sand ghats, which were with them



under settlement and after taking possession of those sand ghats, possession of same were given to the local SHO and concerned Circle Officers/Mining department to keep the sand secure. It appears that if there was not any 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 possession was withdrawn over sand ghats. In such circumstances non-displaying rate, name of settlee appears (petitioners) appears very obvious.

68. No doubt, illegal mining or excessive mining or mining beyond the permitted area/map plan is theft. This proposition was confirmed by the 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 that they excavated sand beyond the permitted area. It is admitted position that government started to sell sand from first



week of September, 2021 from different K-sites, therefore, on date the date of lodging of FIRs for shortage of any sand stocks respondents itself appears responsible.

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

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

70. 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 offence committed under Section 405 of the IPC, which is punishable under Section 406 of the IPC.

For Section 411 IPC:

71. From the FIRs, the allegation is not of a nature which may suggest that petitioners at any point of time retained any property knowing or having reason to



believe that same to be stolen property.

For Section 414 IPC:

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

For Section 420 IPC:

73. 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 an 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 31.10.2020, again from 01.11.2020 till 31.12.2020, the third time from 01.01.2021 till 31.03.2021, and the fourth extension was given from 01.04.2021 till 30.09.2021, the 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. 95,78,50,800/- outstanding royalty was demanded by respondents. There is nothing on record which may suggest that petitioners from the very inception were intended to cheat the authorities concerned in this long tenure of settlements of six years.

74. Hence, by any prudent imagination, the case of cheating *prima-facie* does not appear convincing against petitioners.

75. It is relevant to mention that vide order dated 15.05.2023 passed in Cr. Misc. No. 8423/2023, by which the 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 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 took place. It was further stated that there may be situation in which even the persons who were given the responsibility to keep the stocks secured may have been involved.

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

77. Taking note of the aforesaid legal discussions, the allegation raised in the FIRs and the documents which are of 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 their consequential proceedings which are the subject matter of the aforementioned writ petitions.

78. Consequent upon that, all writ petitions stand allowed.

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

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	19.04.2025
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