

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52025 of 2015

Arising Out of PS.Case No. -46 Year- 2015 Thana -JAMHORA District- AURANGABAD

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1. Dharmendra Kumar, Son of Sri Surendra Singh, Village Muzaffarpur, P.O.- Baruhin, P.S.- Sahar, District- Bhojpur
 2. Bijendra Kumar Vimal, son of Dudheshear Singh, resident of Village Muzaffarpur, P.O.- Baruhin, P.S.- Sahar, District- Bhojpur.
 3. Sunil Kumar Sachchan, son of Shivshankar, resident of village Jumapur, Bhognipur, Dist- Kanpur Dehat, Uttar Pradesh

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey

For the Opposite Party/s : Mr. Sunil Kr. Panday (App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 17-12-2015 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in connection with Jamhore P.S.Case No. 46 of 2015 for the offences alleged under Sections 379, 411, 420 and 406/34 IPC, 3,4 and 5 of Bihar Mining Act and 33,41 and 42 of Indian Forest Act.

The prosecution case is based on the FIR registered on the basis of self statement made by the SHO, Jamhore P.S., according to which on 31.05.2015 at about 22.15 o'clock he departed from his thana along with ASI, Md. Abdullah Khan, Arun Singh, Sepoy-1092, Upendra Kumar, Sepoy-176, Sudhir



Kumar Sahni, Sepoy – 773 and armed forces. In the meantime he received an information at about 04.05 in the morning that three trucks bearing nos. UP77T-1452, UP65BT-9114 and JH05Z-7398 were going from Chatarpur to Arwal with illegal stone chips. To verify this information, he along with armed forces waited for the arrival of trucks near Pahrawa More. After some time these trucks came and he indicated these trucks to stop, then three truck drivers tried to escape with the trucks but he caught them with the help of armed forces. He demanded challan papers of stone chips from the drivers of truck nos. 1. UP77T-1452 with driver Rakesh Ram, 2. UP65BT-9114 with driver Pramod Yadav and 3. JH05Z-7398 with driver Sudama Singh, but they did not produce it and said that we do not take challans, thus we save money. Thus on non production of documents three trucks were seized and seizure memo was prepared in front of independent witness Sunil Kumar and Sepoy – 1092 Upendra Kumar, on which both have signed willingly. The three truck drivers were arrested. It is thus clear that these truck drivers along with their owners do illegal business of stone chips.

It has been submitted by the counsel for the petitioners that they are the owners of the aforesaid trucks and stone chips were being carried by valid chalans to the crushing unit of stone, namely, M/s Sona Stone Chips, whose proprietor is

Sri Nand Prasad Gupta. He is a valid licence holder for crushing the stone and the stones were being carried in the aforesaid trucks, which is evident from Annexure 2 to this petition. Furthermore, it has been submitted that the District Mining Officer, Palamau has already confirmed on 30.07.2015 vide letter No.568 that the stone chips were being carried in three trucks having valid chalans and these chalans were taken on- line through internet. It has further been submitted that the truck drivers have been granted bail by the learned court below and no case, as alleged, in the FIR is made out as the stones were being carried by means of valid chalans to proper destinations.

Be that as it may, let the petitioners, above named, in the event of their arrest/ surrender in the court below within a period of six weeks be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Aurangabad in Jamhore P.S.Case No. 46 of 2015, subject to the conditions as laid down u/s 438(2) Cr.P.C.

(Nilu Agrawal, J)

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