

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38759 of 2014

Arising Out of PS.Case No. -43 Year- 2014 Thana -DUMRIAGHAT District-
EASTCHAMPARAN(MOTIHARI)

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1. Gopalji Sahani S/o Mohar Lal Sahani
2. Paras Mahto S/o Chain Mahto
Both r/o vill.- Pakri, P.S.- Dumariya Ghat, Dist.- East Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate.

For the Opposite Party/s : Mr. C.Sen Pd.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 13-03-2015 Heard learned counsel for the parties as with regard to

the offence under Sections 379 and 411/34 of the Indian Penal

Code and Section 26(A) 4(1) & 40 of the Mining Act, 1972.

This Court, by taking into account that the petitioner
no. 1 claims to be the owner of a field adjacent to the river from
which illegal mining of the sand was said to be carried out by his
driver, the petitioner no. 2 and the fact that both the petitioners
have also criminal antecedent, would direct that if the petitioners
surrender before the court below and give a written undertaking
that henceforth they shall not be in any way dealing with the sand
in the river unless they are given the authority by the Mining
Department, they would be released on bail.

That being so, if the petitioners surrender before the



court below within a period of four weeks from today, they shall be released on bail on furnishing bail bond of Rs. 10,000/-each with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, East Champaran at Motihari in connection with Dumariyaghat P.S.Case No. 43 of 2014, subject to the following conditions:

- (i) That both the bailors will be close family relatives of the petitioners, who will undertake an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the court if there is any change in the addresses of the petitioners.
- (ii) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioners are implicated in any other case of similar nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.
- (iii) That the petitioners will be well represented on each and every date in course of trial and if they fail to do so on two consecutive dates, their bail

will be liable to be cancelled on this ground alone.

It however goes without saying that such undertaking given by the petitioners would be only used for future purpose and will never be treated as their admission of having committed the alleged offence.

(Mihir Kumar Jha, J)

Sujit/-

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