

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61855 of 2017

Arising Out of PS. Case No.-32 Year-2016 Thana- MADHUBAN District- East Champaran

1. Smt. Johra Khatoon @ Johra Khatoon, W/o Late Miyanjaan Ansari,
2. Tunna Mian S/o Anwar Hussain, Both R/o Village- Jitaura, P.S.- Madhuban, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Singh, Adv.
For the State	:	SRI RAM ANURAG SINGH, Adv.
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-12-2017 Heard learned Counsels for the petitioners and learned
Special PP for the Mines.

The petitioners are apprehending arrest in a case registered for the offences punishable under Rules 4/40 of the Bihar Minor Mineral Concession Rules, 1972 and Sections 3/4 of the Prevention of Damage to Public Property Act, 1984.

Prosecution case as per the written report of the Circle Officer, Madhuban, submitted to the Officer In-charge, Madhuban Police Station, is to the effect that after receiving a secret information that some persons are damaging the dam constructed over the Budhi Gandak river near Kasba Tola by a JCB machine, for conducting illegal mining, a raid was led and



the JCB machine was seized and handed over to the Pakridayal Police Station.

It is submitted by learned counsel for the petitioners that the petitioners are not named in the FIR. The FIR was lodged against the owner of the JCB machine, but the name of the petitioners surfaced during investigation and it is alleged that petitioner no.1 being Mukhiya of Raj Dulma Panchayat and petitioner no.2 who was son of petitioner no.1 were present when the illegal mining was being committed and the dam was being damaged. It is further submitted that petitioner no.1 being 80 years old lady has been named as an accused only on suspicion. Even assuming the accusation that the petitioners were present when the illegal mining was committed by JCB machines, it does not constitute any offence either under I.P.C. or under the Mines and Minerals Act. Moreover, the JCB machines has been released in favour of the owner, who has been granted anticipatory bail by a co-ordinate Bench of this Court vide Criminal Miscellaneous No. 23331 of 2016.

Learned Special PP appearing for the Mines Department submits that during investigation, it has transpired that in the knowledge of the petitioner no.1, being Mukhiya of Raj Dulma Panchayat, illegal mining was being conducted.



Considering the nature of accusation and the fact that the persons on whose JCB machines illegal mining is being conducted has been granted anticipatory bail, coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM-IV, Motihari, in connection with Madhuban P.S. Case No.32 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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