

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41537 of 2017

Arising Out of PS.Case No. -156 Year- 2017 Thana -ASHTHWAN District- NALANDA
(BIHARSHARIFF)

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1. Baiju Yadav, Son of Shivan Yadav,
2. Ashwani Yadav, Son of Baiju Yadav,
Both are resident of Village- Piprapur, P.S.- Sare, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha

For the Opposite Party/s : Smt. Renuka Ratnakar

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

4 08-11-2017 Heard learned counsel for the petitioners and learned
APP for the State.

Petitioners are languishing in judicial custody since
31.07.2017 in connection with Asthawan P.S. Case No. 156/17 for
offences punishable under Section 379 of the Indian Penal Code,
Sections 4, 40 of the Bihar Minor Mineral Concession Act, 1972
and Section 8(d) of the Bihar Minor Mineral Rules, 2003.

The prosecution case, as lodged by the informant, is
that on secret information that some persons are illegally taking
away sand to sell it, the police found the petitioner no. 1 on a
motorcycle and petitioner no. 2 (his son) driving the tractor loaded
with sand, which was surreptitiously being taken for selling.



Accordingly, a seizure-list was prepared.

It has been submitted by the learned counsel for the petitioners that they are innocent, bear no criminal history and no sand was loaded in the said tractor as the seizure memo only refers to the tractor number and its chassis but not that it was loaded with sand, hence, no offence under Section 379 of the IPC is made out against them. He submits that charge-sheet has already been submitted and there is no allegation of tampering of the prosecution witnesses by the petitioners and both father and son have been roped in.

However, learned APP for the State opposes the prayer for bail stating therein that in spite of ban of the National Green Tribunal, the petitioners were carrying on illegal mining.

Considering the facts and circumstances and the materials on record since the charge-sheet has already been submitted and seizure-list does not contain any loading of sand, let petitioners, above named, be enlarged on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. Chief Judicial Magistrate-VI, Nalanda at Bihar Sharif, in connection with Asthawan P.S. Case No. 156/2017, subject to the following conditions :



- (i) Both the bailors would be a close relative of the petitioners having sufficient immovable property, who will file an affidavit stating their relationship with the petitioners.
- (ii) Petitioners will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of their bail bonds.

(Nilu Agrawal, J)

Rajesh/-

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