

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58893 of 2017

Arising Out of PS.Case No. -362 Year- 2017 Thana -FATEHPUR District- GAYA

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1. Dharmendra Kumar, son of Somali Manjhi,
2. Santosh Yadav, Son of Ram Khelawan Yadav,
Both resident of Village- Kobilpur, P.S.- Fatehpur, District- Gaya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate

For the Opposite Party/s : Mr. Chaubey Jawahar, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 14-12-2017 Heard learned counsel for the petitioners and the

learned counsel appearing on behalf of the State.

The petitioners are in custody since 14.10.2017 in connection with Fatehpur P.S. Case No.362 of 2017 registered for the offences under Sections 379, 406 and 420 of the Indian Penal Code and Mines and Mineral (Development and Regulation) Act, 1957 of Rules 4 and 25 and Bihar Mines and Mineral Concession Rule, 1972 of Section 4 and Bihar Mineral (I.M.T.S. and Prevention) Act, 2003 of Rules 6 & 8.

Learned counsel for the petitioners submits that the present petitioners are facing prosecution on account of the fact that the tractor carrying sand was not having a valid licence to do so under the provisions of the New Act. It is further



submitted that the said F.I.R. is in violation of Section 75 of the Bihar Minor Minerals Rules, 2017 and Section 75(b) is only to be attracted if the vehicle in question was found to be far in excess of the overloading of sand, which is a mineral under Section 2(x)(4) of the Rules, 2017. The allegation that the petitioners were carrying sand from Korla Ghat is also not correct as the sand had been taken from Dhurva Ghat, for which the wife of petitioner no.2 was having a valid *Challan* dated 13.10.2017 and the petitioner no.2 along with labourers was apprehended at 2 P.M. on the same date. Thus, the entire prosecution is misconceived.

Having heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State and after perusing the materials on record, let the petitioners, above named, be released on bail on their furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned I/C A.C.J.M.-X, Gaya, in connection with Fatehpur P.S. Case No.362 of 2017.

(Anjana Mishra, J)

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