

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No. 28774 of 2017**

Arising Out of PS.Case No. -32 Year- 2017 Thana -KOILWAR District- BHOJPUR

- =====
1. Narbadeshwar Singh, Son of Late Krishna Kumar Singh.
  2. Sanjay Kumar Singh, Son of Late Harendra Pratap Singh.
- Both residents of Village - Dhandiyan, P.S. Koilwar, District : Bhojpur at Ara.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Deputy Director, Mines, Bhojpur at Ara.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. P. K. Shahi, Sr. Advocate  
For the State : Mr. Md. Arif, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 10-08-2017**

Heard Mr. P. K. Shahi, learned senior counsel along with Mr. Sada Nand Roy, learned counsel for the petitioners; learned A.P.P. for the State; Mr. Rajendra Prasad, learned Special P.P. (Mines) and Mr. Jitendra Kumar Roy, learned counsel who has assisted the Court claiming that on his complaint the District Magistrate had ordered for enquiry which has resulted in the F.I.R. being lodged.

2. The petitioners apprehend arrest in Koilwar P.S. Case No. 32 of 2017 dated 20.02.2017 instituted under Sections 379/34 of the Indian Penal Code, 40 of the N.G.T. Act, The Mines and Minerals (Development and Regulation) Act, 1957 and 21 of the Bihar Minor Mineral Concession Rules, 1972.

3. The allegation against the petitioners is of illegal



mining of sand.

4. Learned counsel for the petitioners submitted that the very lodging of the F.I.R., based on the statement of the informant is clearly a coloured exercise for the reason that it is the Assistant Director, Mines, Bhojpur and the person is himself under investigation in a vigilance case where it is alleged that he has assets disproportionate to his known sources of income. It was submitted that the said officer having indulged in corruption, it is obvious that because the petitioners could not satisfy him, the present case has been lodged. It was submitted that the brother of petitioner no. 2 is the elected *Mukhiya* and that is why due to political and local rivalry, they have been implicated. It was further submitted that the presence of learned counsel for the original complainant is clearly indicative of the fact that the matter is more political rather than substantial, since the complainant was the person who was defeated by the brother of the petitioner no. 2 for the post of *Mukhiya* of the concerned Gram Panchayat. Learned counsel submitted that during investigation, various witnesses have not supported the prosecution case and have in fact given a categorical statement that no illegal mining was being done by the petitioners.

5. Learned A.P.P., from the case diary, submitted that there are many witnesses who have supported the prosecution story and have categorically stated that the petitioner was involved in



illegal mining.

6. Learned counsel for the opposite party no. 2, i.e., the Deputy Director, Mines, Bhojpur submitted that he has written to the Assistant Director, Mines, Bhojpur for instructions but the same has not been received. The Court takes strong exception of such stand by learned counsel for the reason that anticipatory bail applications are heard expeditiously and without much loss of time. In the present case, besides the case having been filed on 16.06.2016, after serving a copy on the learned Special P.P. (Mines), for opposite party no. 2, on 15.06.2017 and the case having been heard earlier on 13.07.2017, and still instructions not received, shows a sad state of affairs in the working of the office of the Mines and Geology Department. The Court would thus, require the Principal Secretary, Mines and Geology Department to take immediate and strict action in the matter and also fix responsibility for instructions not being sent to the counsel to enable him to assist the Court at the time of hearing, which may also be collusive.

7. Learned counsel for the original complainant submitted that the petitioners have suppressed their criminal antecedent in the present application as only one has been disclosed whereas there are four cases against them and only today, by way of supplementary affidavit, the same have been disclosed.

8. Learned A.P.P., from the case diary, submitted that



the investigation is still going on and witnesses have supported the prosecution case. He submitted that the vigilance case against the Assistant Mining Officer is not relevant in the present case since in a spot enquiry conducted by the officer and the local S.H.O., the fact of illegal mining has been found correct and that the petitioners had instigated the local villagers to thwart the enquiry. Further, it was submitted that if the petitioners claim that they are not connected with any sand mining, then the allegation of demand of illegal gratification falls flat as no officer would demand gratification from any person who is not connected with the mining work.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioners on anticipatory bail and accordingly, the application stands dismissed.

10. Let a report be submitted to the Court with regard to the action taken by the Principal Secretary of the Department in the matter, when the case shall be listed only for such purpose under the heading ‘For Orders’ on 30<sup>th</sup> August, 2017 at 2.15 P.M.

11. Learned A.P.P. shall communicate the order to the Principal Secretary of the Department.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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