**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Criminal Miscellaneous No.1889 of 2018**

Arising Out of PS.Case No. -189 Year- 2017 Thana -BARUN District- AURANGABAD

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1. Chandan Kumar.
2. Rahul Kumar. Both Sons of Ashok Singh, resident of Village- Bagnaha, Police Station- Barun, District- Aurangabad.

.... .... Petitioner/s

Versus

The State of Bihar.

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

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**Appearance :**
For the Petitioner/s : Mr. Shailesh Kumar Singh, Advocate
For the Department of Mines: Mr. Naresh Dikshit, Advocate
Mr. Brij Bihari Tiwary, Advocate
For the State : Mr. Sri Nand Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**
ORAL ORDER

02/ 15-01-2018 Heard learned counsel for the petitioners and learned Special PP for the Mines Department.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 379, 411, 420, 120B/34 of the Indian Penal Code, Rules 3/4/5 of Bihar Minerals (Prevention of Illegal Mining Transportation And Storage) Rules, 2003 and 75/80 of Bihar Minor Mineral Rules, 2017.

The prosecution case got initiated with the written report of Circle Officer, Barun Block dated 05.11.2017 submitted to the Officer-in-Charge, Barun to the effect that on

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04.11.2017 in course of drive against illegal mining the informant reached Indian Oil Petrol Pump west to Keshav More, Barun where he found that a sand loaded truck bearing Registration No. UP67T-0845 when others managed to escape from the scene but one labourer namely, Rameshwar Paswan and the driver Parwez Alam were apprehended. Thereafter, the raiding party reached near Kocharh where 12 tractors loaded with sand were intercepted. Four drivers and one person who was realizing money were apprehended and rest managed to escape. Apprehended drivers disclosed their names as Pawan Kol, Jai Prakash Kumar, Vikash Kumar, Ishwar Dayal Keshri and the person who was realizing money disclosed his name as Dhanesh Kumar. The apprehended persons disclosed the name of several owners and drivers. Petitioner no. 1 is the owner and driver of tractor bearing Registration No. BR26K-2385 and petitioner no. 2 is owner and driver of tractor bearing Registration No. BR26G 06152.

It is submitted by learned counsel for the petitioners that the sand were being carried on a valid challan. The quantity of sand loaded on the tractor concerned, has not been mentioned which suggests that mechanically FIR has been registered. A statement has been made in paragraph 3 of the

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petition that the petitioners are not having any criminal antecedent.

Learned Special PP submits that the transportation of the sand was made illegally without valid challan.

Considering the nature of accusation, keeping in view the fact that the petitioners are not having any criminal antecedent, the petitioners were not found mining or transporting the sand and the operation of Bihar Minor Minerals Rules, 2017 being stayed by the Division Bench of this Court in C.W.J.C. No. 16965 of 2017, 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 twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Barun P.S. Case No. 189 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

**(Dinesh Kumar Singh, J)**

DKS/-

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