

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58871 of 2017

Arising Out of PS.Case No. -77 Year- 2017 Thana -JADOPUR District- GOPALGANJ

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1. Jitendra Rai, son of Balister Rai, resident of Village- Madhopur Bujurg, Police Station- Tareya Sujan, District- Kushi Nagar, U.P.
 2. Kamlesh Singh, son of Bashisth Narayan, resident of Village- Pachrukhiya, Police Station- Majhawan, District- Baliya, U.P.
 3. Bhuneshwar Singh, son of Bali Singh, resident of Village- Kuraghat, Police Station Gorakhpur Cant, District- Gorakhpur, Permanent resident of Tareya Harkkesh, Police Station- Tareya Sujan, District- Kushinagar U.P.
 4. Haridwar, son of Birendra, resident of Village- Sabeya, Police Station- Kaseya, District- Kushinagar, U.P.
 5. Babu Khan, son of Izazul Khan, resident of Village- Madhuwahan, Police Station- Nautan, Distict- West Champaran, Bettiah.
 6. Dilip Kumar Singh, son of Tejpratap Singh, resident of Village- Pipra, Police Station- Kushinagar, District- Kushinagar, U.P.
 7. Anil Yadav, son of Chandranath Yadav, resident of Village- Sohanariya, Police Station- Tarkulwa, District- Deoria, U.P.
 8. Sahid Khan, son of Karmullah Khan, resident of Village- Ijra, Police Station- Sangrampur, District- East Champaran, Motihari.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7

For the Opposite Party/s : Mr. Bisheshwar Ram

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

3 19-01-2018 Heard the learned counsel for the petitioners as well as the learned A.P.P. for the State.

In this application for anticipatory bail the petitioners apprehend their arrest in connection with Yaddopur P.S. Case No. 77 of 2017 for the offences punishable under sections 379 and 120 B of the I.P.C, sections 4 and 40 of the Bihar Mines Conservation



Act and section 8 of the Bihar Mineral Prevention of Illegal Mining Transportation and Storage Act.

Allegedly, acting on a tip off the informant and other police personnel raided at the bank of Gandak river and found the work of extracting the sand with the help of J.C.B. being loaded on the truck and dumper and after chase five persons were arrested and the petitioners are owners of the seized motorcycle, J.C.B., tractor, truck and dumper.

Submission is of false implication and that the petitioner's truck, dumper and JCB had been hired by the land owner to remove the sand layer from their agricultural land which was collected due to flood so that the land may be used for cultivation, the place of occurrence is not the mining place rather it is agricultural land, other accused persons have been granted regular bail hence the petitioners also deserve sympathetic consideration.

The learned A.P.P. opposes prayer for pre-arrest bail of the petitioners by submitting that during investigation it has come that the petitioners were engaged in uplifting the sand.

In the facts and circumstances stated above, I am not inclined to grant privilege of pre-arrest bail to the petitioners and accordingly their such prayer stands rejected in connection



with the aforementioned case pending in the court of A.C.J.M-14th, Gopalganj.

However, in case and if so advised, the petitioners surrender and seek regular bail then their prayer for regular bail shall be considered on its own merit without being prejudiced by this order and further considering that other co-accused have been allowed regular bail.

(Jitendra Mohan Sharma, J)

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