

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19074 of 2019

Arising Out of PS. Case No.-1024 Year-2018 Thana- FORBESGANJ District- Araria

1. NAFIS @ MD. NAFIS, Son of Md. Makbool, R/o Village- Rampur, P.S.- Forbesganj, Distt.- Araria.
2. Md. Touheed @ Md. Tauhid Reza, Son of Md. Makbool, R/o village- Rampur, P.S.- Forbesganj, Distt.- Araria.
3. Md. Tamzeed, Son of Md. Makbool, R/o village- Rampur, P.S.- Forbesganj, Distt.- Araria.
4. Md. Javed, Son of Md. Latif, R/o village- Rampur, P.S.- Forbesganj, Distt.- Araria.
5. Md. Saddam Son of Md. Ekabool R/o village- Rampur, P.S.- Forbesganj, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Mandal
For the Opposite Party/s : Mr.Nawal Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 29-03-2019 Heard learned counsel for the petitioners and learned
Special PP for the Department of Mines.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 353, 307, 431, 432, 506 of the Indian Penal Code, Rules 40(4), (5), (7), (8) of the Bihar Minor Mineral Concession Rules, 1972 and Rules 3, 4, 6 and 8 of Bihar Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2003.



The prosecution case, as per the written report of Basant Kumar Sinha, Junior Engineer, Irrigation Division, Forbesganj dated 31.12.2018 submitted to the Station House Officer of Forbesganj Police Station, is to the effect that in the year 2017 in order to fix the damage caused in flood, Kasba Bitarni canal was prepared by filling soil, but the informant came to know that some miscreants are cutting and transporting and soil illegally from the said canal. On 31.12.2018 at about 6.00 A.M. all the accused persons named in the FIR including the petitioners and 50 unknown were cutting and transporting the soil from the canal near the village Rampur North and consequently, raid was laid, but on seeing the authorities of the administration, all the accused persons escaped from the scene leaving behind the tractor. It is further alleged that after some time, all the accused persons came and forcibly set free the seized tractor from the guard namely, Bindheshwari Shukla, who disclosed the name of the accused persons including the petitioners.

It is submitted by learned counsel for the petitioners that the accusation is omnibus and general against the petitioners and other 50 unknown persons and there is an other case with accusation of assaulting the said guard against the



petitioners, in which petitioners have not been granted bail. Subsequently, a supplementary affidavit has been filed by learned counsel for the petitioners to the effect that two of the petitioners have been granted bail in that case.

Learned Special PP submits that due to the illegal cutting of soil huge loss has been incurred to the State exchequer.

Considering the accusation being omnibus and general against ll the accused persons including the petitioners, 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, Araria in connection with Forbesganj P.S. Case No. 1024 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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