

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31023 of 2019

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

1. Md. Nafis, Aged about 25 years, Male, Son of Makbul, Resident of Village Rampur, Police Station Forbesganj, District Araria.
2. Md. Anwarul, Aged about 30 years, Male, Son of Md. Kaiyum, Resident of Village Rampur, Police Station Forbesganj, District Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana

For the Opposite Party/s : Mr.Arun Kumar Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 10-05-2019 At the very outset, learned counsel for the petitioners submits that petitioner no.1, Md. Nafis has already been arrested and seeks permission to withdraw the anticipatory bail petition of petitioner no.1.

Prayer is allowed.

This application, so far as petitioner no.1, Md. Nafis is concerned, is dismissed as withdrawn.

Heard both sides.

Petitioner No.2 apprehends his arrest in Forbesganj P.S. Case No.1024 of 2018, registered under Sections 147, 148, 149, 341, 323, 353, 307, 431, 432 and 506 of the Indian Penal Code, under Sections 40(4) (5) (7) and (8) of Bihar Mineral



Rule, 1972, under Sections 3, 4, 6, 8 of Bihar Minerals Prevention of Illegal Mining Transportation and Storage Rule, 2003 as well as under Section 15 of the Environment Prevention Act, 1906.

The informant alleged that many villagers were cutting earth from the bed of the canal causing immense loss to the department as well as causing damage to the embankment of the canal which may during the irrigation season cause breach in the canal and the vast area may submerge but when the informant and others went, the accused persons fled away leaving tractor in the bed of the canal. It is further alleged that the accused persons came and forcibly took away the tractor from possession of the police officials.

Learned counsel for the petitioners submits that the name of the petitioners came from the source of Chowkidaar. The petitioners are not the owner of the tractor. Name of the petitioners have been figured in the case on mere conjectures. Although, the petitioners did not participate in cutting earth nor cause any damage to the embankment by cutting earth from the bed of the canal.

Considering the facts aforesaid and the nature of allegations made against the petitioners and the fact that the



petitioners are not the owner of the tractor, let petitioner no.2, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt of this order, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Araria in connection with Forbesganj P.S. Case No.1024 of 2018, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Prabhat Kumar Jha, J)

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