

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53502 of 2019

Arising Out of PS. Case No.-123 Year-2019 Thana- FATEHPUR District- Gaya

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1. MUKESH KUMAR Son of Shambhu Singh Resident of Village-Badaun, P.S.-Paraiya, District-Gaya.
 2. Gopal Kumar Son of Ramashray Singh Resident of Village-Dakhner, P.S.-Paraiya, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinod Kumar

For the Opposite Party/s : Mr.Mohammad Sufyan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 27-08-2019 Heard learned Counsel for the petitioners and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Fatehpur Police Station Case No. 123 of 2019, disclosing offences under Sections 4/21 of the M. M. (D. R.) Act, 1957, Section 4/40 of the B. M. M. C. Rules, 1972 and 6(4), 5 (a), 5(c) and 8(a) of the Bihar Minerals (Illegal Mining Transportation and Storage) Act, 2003.

The allegation against the petitioners is that the police got a secret information that a tractor of Mahindra make was carrying sand and seized the same and parked in the Police Station. The police found 100 cft. of sand loaded on the tailor



attached with the said tractor. It has further been alleged that on enquiry, nobody has produced any challan regarding the sand loaded on the tractor before the mining officials.

Learned Counsel for the petitioners submits that the petitioner no. 1 is neither the owner of the tractor nor its driver and has unnecessarily been implicated in this case. He further submits that the petitioner no. 2 is the owner of the tractor in question and the tractor was being driven by the driver, who without the consent of the owner, was carrying sand on the tractor. He further submits that the petitioners have no criminal antecedents.

After having heard learned Counsel for the parties and taking into consideration the fact that the petitioner no. 2 is the driver of the tractor and sand was being carried out by the driver without his consent and the petitioner no. 1 has no concern with the tractor, I am inclined to grant the petitioners privilege of anticipatory bail. Accordingly, this application is allowed.

Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail 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, Gaya, in



connection with Fatehpur Police Station Case No. 123 of 2019,
subject to the condition laid down under Section 438 (2) of the
Code of Criminal Procedure.

This is subject to the condition that the petitioners
shall present themselves before the police/Court, as the case
may be, as and when required and in the event of failure on their
part to appear before the Court on two consecutive occasions,
their bail bonds shall be liable to be cancelled.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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