

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66139 of 2019

Arising Out of PS. Case No.-614 Year-2019 Thana- BIHTA District- Patna

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1. Rakesh Kumar Singh, Aged about 34 years Gender Male, Son of Late Dheerendra Singh
 2. Ajit Kumar Singh, Aged about 46 years, Gender-Male, Son of Late Anup Singh
- Both are residents of Village - Bindaul, P.S.- Bihta, District - Patna

... .. Petitioners

Versus

1. The State of Bihar
2. The Director, Department of Mines, Government of Bihar, Patna Bihar

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. K.N. Choubey, Sr. Advocate Mr.Prashant Kumar, Advocate
For the State	:	Mr.Nand Kishore Prasad, APP
For Mines Department	:	Mr. Naresh Dixit, Spl. P.P. (Mines)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 14-11-2019 Heard Mr. K.N. Choubey, learned senior counsel for the petitioners, learned APP for the State and learned Assistant Counsel to learned counsel for the opposite party no. 2.

The petitioners apprehend their arrest for the offences alleged under Sections 406, 420, 467, 468 and 471 of the Indian Penal Code and Rules 33, 49 and 40 of the Bihar Minor Mineral Concession Rules, 1972 registered in connection with Bihta P.S. Case No. 614 of 2019.

The prosecution case, as per written report lodged by one Rajesh Kumar Kushwaha, Mining Development Officer before the S.H.O. of Bihta Police Station on 26.06.2019, is that on 25.06.2019



the informant got confidential information that illegal act of digging, transporting and stocking of sand in between Parev to Bindaul is going on. Thereafter one Enquiry Team in the leadership of S.D.P.O. Danpur was organized. It has further been alleged that on 26.06.2019 at about 8.00 A.M. the informant raided the spot and found stocks of sand near Pareve-Bindaul river road and also found Tractors, Highwa, etc. engaged in loading and unloading the sand. The informant did not find any Board displayed at the spot in respect of license etc. Staff of M/s Broadson Commodities was present near the spot but he did not produce any document. It is further alleged that total eight license has been issued for Bindaul bearing license Nos. 5/19, 10/19, 15/19, 32/19, 34/19, 37/19, 38/19 and 60/19. Physical verification of stocks was done and stocks of sand at the spot were shown that the license holders have stored 2696100 quibic feet red sand at Bindaul but demarcation, sign board and stock register were not maintained by them which is violation of the B.M.M.C. Rules. The informant is alleged to have seized the aforesaid stocks and made request to take action against agreement holders.

Learned senior counsel for the petitioners submits that the petitioners are innocent. All the alleged licenses have been issued in the names of M/s Broadson Commodities Private Limited and petitioner no. 1 has made a lease agreement of his land with the aforesaid company vide agreement dated 24.04.2019 and on the basis



of lease agreement, M/s Broadson Commodities Private Limited got license nos. 5, 10, 15 and 37 to stock the sand. Petitioner no. 2 has also made lease agreement of his land with the aforesaid company vide agreement dated 16.05.2019 on the basis of which license no. 32 was issued to stock the sand in this case. Learned counsel further submits that no offence under the aforesaid sections of the IPC is made out against the petitioners and the alleged offences under the aforesaid Rules are bailable.

Learned counsel submits that instant case is not maintainable as Rule 41 of Bihar Minor Mineral Concession Rules, 1972, provides for a complaint to be made in writing to the Magistrate by competent officer or Director of Mines.

In the facts and circumstances of the case, in the event of the petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioners be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-I, Danapur, Patna in connection with Bihta P.S. Case No. 614 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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