

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22251 of 2020

Arising Out of PS. Case No.-8 Year-2020 Thana- BANDHUWA KURAWA District- Banka

1. HIRA MIRDHA Son of Late Kaleshwar Mirdha R/O Village - Bhalsumiya, Police Station - Bounsi, District - Banka.
2. Ramu Laiya S/O Late Daro Laiya Resident of Village - Kokula, Police Station - Bounsi, District - Banka.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Assistant Director, Mines and Geology Department, Banka. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Mukherjee
For the Opposite Party/s : Mr.Arun Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 21-10-2020 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Bandhuwa Kurawa P.S. Case No. 08 of 2020, disclosing offences punishable under Sections 379/411 of the Indian Penal Code, Sections 4/40 of BMMC Rule, 1972, Sections 4/21. 4/21 (4A) of the MMDR Act, 1957 and Sections 3/6/8(b) of the Bihar Mineral Prevention of Illegal Mining Transportation and Storage Rule, 2003.

According to the case of the prosecution, a tractor loaded with 80 CFT sand was intercepted by a police Officer at 4.P.M. on 10.02.2020. The petitioners are admittedly owner



and driver of the seized tractor.

Mr. Ajay Kumar Mukherjee, learned counsel appearing on behalf of the petitioners has argued that Sections 379 and 411 of the Indian Penal Code are not applicable as the offence is made out under a Special Acts/ statutory provisions, viz, Bihar Mines and Minerals (Concession, Prevention of Illegal mining, Transportation and Storage) Rule, 1972, Bihar Mineral Prevention of Illegal Mining Transportation and Storage Rule, 2003 and Mines and Minerals Development Regulation Act, 1957. He has submitted that the petitioners' implication is only because they are owner and driver of the said vehicle.

Considering the gravity of the offence to the effect that the tractor was found loaded with sand without any authority, I am not inclined to grant the petitioners privilege of anticipatory bail, in view of the law laid down by this Court in case of **Santosh Kumar Sharma V. State of Bihar** reported in **2019(2) PLJR 21** and **Mithilesh Kumar Singh V. State of Bihar** rendered on 26.08.2019 in **Cr. Misc. No. 540 of 2019**.

This application is rejected.

The petitioners are directed to surrender before the Court below within a period of eight weeks from today and seek



regular bail, if so advised. If they do so, their application for regular bail shall be considered by the learned court below on its own merit without being prejudiced by rejection of present application for grant of anticipatory bail.

(Chakradhari Sharan Singh, J)

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