

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 27474 of 2020

Arising Out of PS. Case No.-7 Year-2020 Thana- DHANKUND District- Banka

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1. PAITI PRASAD YADAV @ PAITI PRASAD Son of Pitangi Yadav Resident of Village- Morama, P.S.- Rajoun, District- Banka.
 2. Guddu Prasad Yadav Son of Jaldhar Yadav Resident of Village- Morama, P.S.- Rajoun, District- Banka.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Mining Development Officer-Cum-Incharge Mining Inspector, Banka, District- Banka.

... .. Opposite Party/s

For the Petitioner/s :	Mr Sanjay Kumar Jha, Advocate
For the Opposite Party/s :	Mr Nand Kishore Prasad, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

2 03-12-2020

As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard learned counsel for the petitioners and the learned APP for the State.

Petitioners apprehend arrest in connection with Dhankund Police Station (for brevity *PS*) Case No 7 of 2020 dated 18.01.2020 instituted for the offence punishable under Sections 379/411 of Indian Penal Code, Section 56 of Bihar



Minerals (Concession, Prevention and Illegal Mining, Transportation & Storage) Rules 2019, Section 21 of MMDR Act, 1957 and Section 15 of Environment Protection Act.

One tractor is alleged to have been seized loaded with sand. The driver has fled away.

Petitioners' counsel submits that petitioner No 1 is owner of the truck. Petitioner No 2 is alleged to be the driver. It is his submission that the sand was being carried after its purchase in accordance with law. However, the documents have been destroyed by the Seizing Officer so as to implicate the petitioners in the instant case on extraneous considerations.

Without prejudice to this case, it is submitted that the petitioners would deposit the amount of alleged loss caused to the State exchequer subject to result of the case within a period of two weeks from today.

Learned APP for the State has opposed the prayer for anticipatory bail.

In light of the submissions of the petitioners' counsel, this Court would observe that after deposit of the amount, the petitioners should surrender within four weeks from today before the Court below so as to avail the benefit of anticipatory bail. If they do so, they shall be released on bail on each of



them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Sub Divisional Judicial Magistrate, Banka in Dhankund PS Case No 7 of 2020 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

Learned counsel for the petitioners is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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