

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37763 of 2020

Arising Out of PS. Case No.-261 Year-2020 Thana- HISUWA District- Nawada

1. Pintu Kumar (Male), aged about 38 years, Son of Late Ram Lakhan Prasad Singh, Resident of Village/Mohalla-Dasturpar, Daruara, PS-Noorsarai, District-Nalanda.
2. Rajesh Kumar (Male), aged about 45 years, Son of Krishnandan Singh, Resident of Village/Mohalla-Dasturpar, Daruara, PS-Noorsarai, District-Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the State	:	Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 23-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Arun Kumar, learned counsel for the petitioners and Mr. Dashrath Mehta, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Hisua PS Case No. 261 of 2020 dated 10.08.2020, instituted under Sections 379 of the Indian Penal Code and 379 of the Mines and Minerals (Development and Regulation) Act, 1957.

4. The allegation against the petitioners, who are the owner and driver of the tractor in question is of lifting sand illegally.



5. Learned counsel for the petitioners submitted that though on merits, he has a good case inasmuch as, the CCTV footage of the place of occurrence would indicate that the petitioners' tractor was in a queue waiting for the *challan* from the contractor and due to there being some dispute relating to parking, this false case has been instituted, but since the police during investigation have found substance in the stand of the petitioners, they have themselves granted the petitioners the privilege under Section 41A of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code'). Thus, learned counsel submitted that in view of the aforesaid, he may be permitted to withdraw the present petition with liberty to again move the Court if in future, there is apprehension or likelihood of their arrest in the present case. Learned counsel submitted that since such information was not available with him at the time of filing of the present petition, it has not been stated but the Court may record his submission.

6. Learned APP submitted that since the petitioners are not pressing the matter on merits, the Court may consider the plea.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds the stand taken by learned counsel for the petitioners to be reasonable. Since, as of now, there is no apprehension of arrest as



the agency which could effect such arrest i.e., the police itself has granted the privilege of Section 41A of the Code, as prayed for by learned counsel for the petitioners, the present petition stands disposed off as withdrawn with liberty to again move this Court in future, if there is genuine apprehension of arrest of the petitioners in connection with the present case.

(Ahsanuddin Amanullah, J.)

P. Kumar

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