

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.398 of 2021

Arising Out of PS. Case No.-349 Year-2020 Thana- AMARPUR District- Banka

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1. KANHAY KAPRI @ KANAHIYA KAPRI, aged 39 years (Male), Son of Shiv Narayan Kapri, Resident of Village- Deshra, P.S.- Banka, Distt- Banka.
 2. MUKESH KUMAR, aged 35 years (Male), Son of Janardhan Mandal, Resident of Village- Bishanpur, P.S.- Amarpur, Distt- Banka.

... .. Petitioners

Versus

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

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Ajay Mukherjee, Advocate.
For the State	:	Mr. Nityanand Tiwari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 25-06-2021 Learned counsel for the petitioners is permitted to make necessary corrections in paragraph no. 1 and prayer portion of bail application.

Learned counsel for the petitioners is directed to remove the defects, as pointed out by the office, within a period of four weeks from the date of restoration of normalcy.

Heard learned counsel for the petitioners and learned A.P.P. for the State through Virtual mode.

The petitioners are apprehending their arrest in a case for the offence registered under Sections 379/411 of the I.P.C., Section 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rule 2019, Section 21



of MMDR Act 1957 and Section 15 of the Environment Protection Act, 1986.

The prosecution story, in brief, is that on 20.06.2020 during inspection, the informant alongwith other police personnel arrived at Madachak, then two Tractor vehicles loaded with sand came from the opposite side and on seeing the police personnel, the drivers of the said vehicles fled away. It is further alleged that no one came to produce the challans regarding the loaded sand on the aforesaid vehicles. Thereafter, the informant seized the said vehicles preparing seizure list as first Tractor bearing Registration No. BR51B-1635 and second Tractor bearing Registration No. JH15N-8391, loaded with 100 CFT of sand and, accordingly, lodged the present case against the owners and the drivers of the seized vehicles.

It has been submitted by learned counsel for the petitioners that the petitioners have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. The petitioner no. 1 is the owner and petitioner no. 2 is the driver of the Tractor bearing Registration No. BR51B-1635. It is alleged that the sand was being carried on the Tractor in question by way of illegal mining. Allegations as made in the



F.I.R. are denied by the petitioners. Fine in question has already been deposited by the petitioners which is Annexure-2 to the present application.

On behalf of the learned counsel for the State, it has been submitted that the petitioners are named in the F.I.R.

Considering the aforesaid facts and circumstances of the case, let the petitioners above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of the learned C.J.M./Successor Court, Banka, in connection with Amarapur P.S. Case No. 349/2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioners shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) only each with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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