

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40678 of 2020

Arising Out of PS. Case No.-173 Year-2019 Thana- POTHIIYA District- Kishanganj

1. Abdul Jalil, S/O Niyajuddin R/O Belgachhi, P.S. - Pothia, Kishanganj
2. Md. Jabir Alam @ Jabir, S/O Md. Kadir Alam R/O Belgachhi, P.S. - Pothia, Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar- Advocate
For the Opposite Party/s : Mr. Binod Kumar No.2- A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 21-06-2021 Heard Mr. Mrityunjay Kumar, the learned Advocate

for the petitioners and Mr. Binod Kumar No.2, the learned APP

for the State.

The petitioners seek bail in anticipation of their arrest in connection with Pothia P. S. Case No.173 of 2019, instituted for the offences under Sections 332, 353, 379/ 34 of the Indian Penal Code and Rule 40 of BMMC Rules, 1972.

Three tractors were intercepted on the charge of getting loaded with illegally extracted sand. When the raiding team of the Mines Department reached the place, the drivers of the aforesaid tractors fled away. However, later, when the vehicles/ tractors were being taken to the local police station, many men and women arrived at the scene and managed to take



away those tractors from the custody of the police.

The learned counsel for the petitioners has submitted that they are being prosecuted in this case only on account of their being owners of two of the tractors which had been intercepted by the Mining Department.

It has further been submitted on behalf of the petitioners that the drivers of those vehicles had acted on their own, without any instruction from the petitioners to load sand. So far as the action of intimidating the police party and taking away the seized tractors from the custody of the police are concerned, the petitioners cannot be blamed for the same.

It has again been canvassed that the directions given by the petitioners to their respective drivers was blatantly flouted and for the drivers having behaved in a truant fashion, the petitioners, who are owners of the vehicles in question, ought not be prosecuted.

Considering the afore-stated facts and taking into account that the petitioners do not have criminal antecedents, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten



Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Kishanganj in connection with Pothia P. S. Case No.173 of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Ashutosh Kumar, J)

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