

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5036 of 2022

Arising Out of PS. Case No.-434 Year-2021 Thana- SHERGHATI District- Gaya

1. ARUN KUMAR @ ARUN KUMAR SINGH S/o Late Bachchu Prasad Singh R/o village- Nagar, P.O. and P.S.- Hunterganj, District- Chatra, Jharkhand
2. Prem Chandra Singh @ Prem Kumar S/o Radha Shyam Singh R/o village- Pindra Kala, P.O. and P.S.- Hunterganj, District- Chatra, Jharkhand

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Parijat Saurav, Advocate
For the Opposite Party/s	:	Mr. Ravindra Kumar, APP
	:	Mr. Naresh Dixit, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 17-11-2022 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel appearing for the Department of Mines.

The petitioners apprehend their arrest in a case registered for the offences punishable under Section 379 of the Indian Penal Code & Section 56 of the Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 & Section 15 of The Environment (Protection) Act, 1986.

Learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and the informant, who is a Mining Officer alleges that as per information received,



he went to the place of occurrence with a police team for a raid at Ghoraghat at Nilanjana river and in the process of raid about 1,10,000/- cubic feet of sand was found stored. It is next alleged that even fresh proof of mining was found and a way was also created through illegal digging of sand. It is next alleged that villagers, who were present revealed that Shakti Kumar and Surendra Kumar were involved in illegal sand mining, storage and transportation without having valid lease, license or permit. It is next alleged that on account of illegal mining, the Government has suffered a loss of Rs. 49,60,000/- as such the same must be compensated by the person who indulged in illegal mining.

Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the petitioners are not named in the FIR and are resident of Jharkhand. It is next submitted that even the villagers had disclosed the name of Shakti Kumar and Surendra Kumar as having been involved in the offence of illegal sand mining. Learned counsel next submits that it appears that the illegal mining was carried out in connivance with the Department of Mines and the police or it was just not possible to accumulate or store 1,10,000 cubic feet of sand at the place of occurrence



within a day or even a week, it is further submitted that for storing such huge quantity of sand would require a longer period and thus it does not appear probable that the authorities would not have known about the occurrence had they been vigilant, it is thus submitted that this casts an aspersion on the conduct of the authority and the police that as to how such large quantity of sand was allowed to be accumulated at the place of occurrence.

The learned counsel next submits that in the FIR it is alleged that Government was put to loss of nearly Rs. 50,000,00/- towards royalty but then merely because the petitioners who are not named in the FIR and their names transpired in the investigation alleging that they were responsible for such illegal mining does not make them culpable and thus to make payment. The learned counsel next submits that by order dated 01.09.2022, time was granted to the learned Advocate appearing for the Department of Mines to seek instruction but no instruction it appears has been received.

Learned A.P.P. for the State and the learned counsel appearing for the Department of Mines oppose the prayer for anticipatory bail of the petitioners but are not in a position to rebut the submission of the learned counsel for the petitioners that as to how such large quantity of sand was found



stacked/stored at the place of occurrence and thus the connivance of the authorities and police cannot be ruled out.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Sherghati P.S. Case No. 434 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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