

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11681 of 2022

Arising Out of PS. Case No.-56 Year-2021 Thana- DHURAIYA District- Banka

1. BINOD ROY Son of Ram Prasad Roy Resident of Village - Padariya, Police Station - Dhoraiya, District - Banka.
2. Raj Kishore Roy Son of Baleshwar Roy Resident of Village - Padariya, Police Station - Dhoraiya, District - Banka.
3. Sikandar Roy Son of Sukho Roy Resident of Village - Padariya, Police Station - Dhoraiya, District - Banka.
4. Nimanchan Roy Son of Jagdish Roy Resident of Village - Padariya, Police Station - Dhoraiya, District - Banka.
5. Kalicharan Roy Son of Parmeshwar Roy Resident of Village - Padariya, Police Station - Dhoraiya, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Nurul Hoda, Advocate
For the Opposite Party/s	:	Mr. Shyameshwar Dayal, APP
For the D/o Mines	:	Mr. Naresh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 17-10-2022 Heard learned counsel for the petitioners, learned counsel for the Department of Mines and learned A.P.P. for the State.

The petitioner nos. 2, 4 and 5 apprehend their arrest in a case registered for the offences punishable under Sections 379, 411 and 120(B) of the Indian Penal Code read with Section 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019, Section 21 MMDR Act, 1957, Section 15 of F.E. Act and Section 26 of the NGT Act.



Learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and the informant alleges that on 16.03.2021 during inspection at Chir River Ghat, four tractors were intercepted carrying sand, it is next alleged that driver of all the tractors fled and the tractors were apprehended from which 4200 CFT of sand was seized, it is next alleged that on account of illegal mining of sand, government suffered revenue loss of Rs. 1,86,946/- and accordingly the present FIR was instituted against the owner and driver of the seized vehicles.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case, it is next submitted that the FIR clearly records that the same was instituted against the driver and owner of the vehicles but petitioners are neither owner nor driver of any of the seized tractors, it is further submitted that it absolutely does not stand to reason that as to how the informant came to know about name of the driver as the FIR does not even remotely suggest the source of information. Learned counsel submits that petitioner no.2 Raj Kishore Roy is working in a school, namely, Vikash Yuwa Sangathan at Fasiya Dangal in Godda (Jharkhand) and on the alleged date of occurrence he was in Jharkhand as would be evident from Letter No. 38 of 2021 dated 14.06.2021 issued by the Secretary of Vikash Yuwa Sangathan at Fasiya Dangal in Godda.



Learned counsel appearing on behalf of Department of Mines opposes the prayer for anticipatory bail of the petitioners and submits that petitioners were involved in illegal mining of sand but is not able to rebut the submissions of the learned counsel for the petitioners that petitioners are not the owner of the tractors nor the FIR discloses that on what basis their name transpired as drivers.

Considering the submissions made by the learned counsel for the petitioners, the petitioner nos. 2, 4 and 5, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Dhoraiya P.S. Case No. 56 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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