

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28513 of 2021

Arising Out of PS. Case No.-399 Year-2020 Thana- GRIYAK District- Nalanda

1. NIWAS SINGH @ NIWAS KUMAR Son of Shiri Singh Resident of Village - Belaur, P.S.- Rajgir, Distt.- Nalanda.
2. Om Prakash Singh @ Om Prakash Kumar Son of Sanjay Singh Resident of Village - Nay Pokhar, P.S.- Rajgir, Distt.- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar No.1, Advocate

For the Opposite Party/s : Mr.Ajay Kumar No.2, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 05-01-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioners and learned APP for the State through virtual mode.

Learned Counsel for the petitioners is directed to remove the defect(s), as pointed out by the office, within a period of four weeks after restoration of normalcy.

The petitioners are apprehending their arrest in connection with Giriyak P.S. case No.399/2020 registered under Sections 147, 148, 353, 379, 427, 504 of the Indian Penal Code



and Rule 56 of Bihar Mineral (Prevention of Illegal Mining, Transportation and Storage) Act, 2019 and Rules 4/12 of M.M. (D.R.) Act, 1957..

Prosecution case, in short, is that the police seized tractor used in illegal sand mining.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. The petitioners have falsely been implicated in the present case. The allegation is in respect of illegal sand mining. General and omnibus allegation has been made against the petitioners. No specific overt act is alleged against the petitioners. The names of the petitioners have transpired in this case on the disclosure made by local Chaukidar. Except for this, there is no other substantive evidence to suggest the implication of the petitioners in this case.

On behalf of the State, it is submitted that the petitioners are named in the complaint case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19



pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the facts and circumstances, 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 learned Chief Judicial Magistrate, Nalanda in connection with Giriyak P.S. case No.399/2020, 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) 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)

Narendra/-

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