

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66942 of 2021

Arising Out of PS. Case No.-39 Year-2021 Thana- SHAMBHUGANJ District- Banka

1. PRADEEP KUMAR ROY @ CHURO ROY @ CHURO SHARMA Son of Late Ram Swaroop Roy Resident of Village - Ranadih, P.S.- Sangrampur, District - Munger.
2. Praveen Kumar Roy @ Lalu Roy @ Lale Roy Son of Late Ram Swaroop Roy Resident of Village - Ranadih, P.S.- Sangrampur, District - Munger.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Parmanand Pd. Nr. Sahi, Advocate
For the Opposite Party/s	:	Mr. Shyameshwar Dayal, APP
For the D/o Mines	:	None

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 08-09-2022 Heard learned counsel for the petitioners and learned A.P.P. for the State. No one appears on behalf of the Department of Mines.

The petitioners apprehend their arrest in connection with Shambhuganj P.S. Case No. 39 of 2021 registered for the offences punishable under Section 379 of the Indian Penal Code read with Section 56(2) of the Bihar Minerals (Concession Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 and Section 40 of the M.M.D.R. Act along with Section 15 of Environment Protection Act.

The informant alleges that on 14.02.2021, during the inspection of Badua River Ghat in Ranadih village, the



informant along with other police personnel found that 1,68,000 CFT of sand was mined illegally by illegal miners damaging the embankment of the said river, it is next alleged that the informant based on inquiry came to know that it were the accused persons named in the F.I.R. who were responsible for committing the occurrence.

Learned counsel for the petitioners submits that the petitioners have antecedent of one case and from perusal of allegation as alleged in the F.I.R., it would manifest that the same is cryptic and vague, it is next submitted that it absolutely does not stand to reason that how come 1,68,000 CFT of sand was illegally mined but still the authorities were not able to decipher the same when the said illegal mining was being carried out. Learned counsel next submits that to mine illegally 1,68,000 CFT of sand would require a very prolonged period of time and it is not that in one day such a huge quantity of sand can be excavated illegally, it is further submitted that it appears that the informant was in league with persons indulging in illegal mining of sand and when the said fact came to the notice of the superior authority, the informant in order to save his own skin instituted a cryptic and a vague F.I.R. Learned counsel next submits that it absolutely does not stand to reason that how



come the informant on the same day, when he had gone to the place of occurrence with the police personnel, came to know about all the accused persons and was even able to assess that 1,68,000 CFT of sand was illegally mined, it is next submitted that the F.I.R. does not even disclose what kind of inquiry was made, nor it discloses the source from which the informant came to know about the accused persons, including the petitioners.

Learned counsel for the petitioners submits that sand is a natural resource and illegal mining of the same is a heinous offence and has the effect of creating ecological imbalance but then at the same time it is also to be seen that no innocent person is sent behind bars as personal liberty of an individual is of immense importance as it has been enshrined in Article 21 of the Constitution. It is next submitted that during the course of investigation also apart from suspicion, nothing has transpired nor any material has come to even remotely connect the petitioners with the offence based on some concrete evidence, learned counsel next submits that during the course of investigation also it has come that local people disclosed the name of the petitioner but then the name of the local people does not surface in the case diary which amply demonstrates the



falsity of the allegation and connivance of the authority of the Department of Mines in getting illegal mining carried out.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners but is not able to meet the submission of the learned counsel for the petitioner that during the course of investigation no material has come to connect the petitioner with the offence except for suspicion.

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 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 Shambhuganj P.S. Case No. 39 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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