

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67442 of 2021**

Arising Out of PS. Case No.-615 Year-2020 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

-
1. Santosh Kumar, S/o Ram Feran Das, R/o Mohalla- Court Bazar, P.S.- Sitamarhi, District- Sitamarhi
 2. Avnish Kumar @ Abhinish Kumar, S/o Rudal Yadav R/o village- Harpur Kala, P.S.- Mejorganj, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Advocate

For the Opposite Party/s : Mr.Zainul Abedin, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

2 13-06-2022 Heard learned counsel for the petitioners and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from today.

In the present case, the petitioners seek anticipatory
bail in connection with Muzaffarpur Sadar P.S. Case No. 615 of
2020 registered for the alleged offence under Section 379 of the
Indian Penal Code.

The prosecution case is that the petitioner no.1 is the
owner of a truck, which was seized by the police on the ground
of overloading and the petitioner no.2 is stated to be driver of
the said truck. Allegedly, the petitioner no.2 fled away with the



truck on instruction of the petitioner no.1, while the truck was seized by the police and was kept outside the police station.

It has been submitted by the learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated as is clear from the FIR itself. It is apparent from the FIR that the police official had been demanding illegal gratification and no case was made out for overloading nor the truck was seized in accordance with law. Moreover, if there is no prepare seizure, no case of theft can be made out against the petitioners as it is the property of petitioner no.1. Though the petitioner no.1 is made an accused in Dumra P.S. Case No.53 of 2016, but he is on bail and the petitioner no. 2 is having clean antecedent.

Learned APP has opposed the prayer for bail, submitting that the truck was overloaded with sand and it was taken away by the petitioners against the official orders.

Having regard to the submissions made hereinabove, let the petitioners above named be released on anticipatory bail in the event of their arrest or surrender before the learned court below within a period of six weeks from today, on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand Only) with two sureties of the like amount each to the satisfaction of



learned Chief Judicial Magistrate, Muzaffarpur, in connection with Muzaffarpur Sadar P.S. Case no.615 of 2020, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions :

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioners will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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