

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71467 of 2021

Arising Out of PS. Case No.-158 Year-2021 Thana- BAIRIYA District- West Champaran

1. AKHTAR KHAN S/o Sagir Khan Resident of Village- Dumariya Pakhnar, P.S.- Bairiya, District- West Champaran.
2. MUNNA KHAN S/o Sagir Khan Resident of Village- Dumariya Pakhnar, P.S.- Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Shyameshwar Dayal, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

4 01-09-2022 By order dated 02.06.2022, the prayer for anticipatory bail of petitioner no. 1 (Akhtar Khan) has already become infructuous.

Heard learned counsel for the petitioner no. 2 and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of four weeks.

The petitioner no. 2 apprehends his arrest in a case registered for the offences punishable under Section 379 of the Indian Penal Code, BM (CPIMIS) Rules, 2019 and Sections 56, 11, 41, 1957, Section 21(4) of the Environmental Protection Act, 1986 and Section 15 of the Act.

Learned counsel for the petitioner no. 2 submits that



petitioner no. 2 is a person with clean antecedent and he has been falsely implicated in the present case by the informant alleging that five tractors were found overloaded of sand for which no valid documents were shown by the drivers of the tractors which led to revenue loss to the government to the tune of Rs.30,350/- per tractor.

Learned counsel for the petitioner no. 2 submits that the FIR has been instituted in a mechanical manner as first the tractors were seized and thereafter an information was sent to the Department of Mines then the present FIR came to be instituted as would be evident from the counter affidavit. Learned counsel submits that it absolutely does not stand to reason that as to what prevented the police from instituting an FIR when it is being alleged that illegal sand was found loaded on the tractors. Learned counsel next submits that there was absolutely no necessity for the police to take permission of the Department of Mines for instituting an FIR under Section 379 of the Indian Penal Code. Learned counsel also submits that this amply demonstrates that for ulterior reason the police implicated the petitioner no. 2 in connivance with the Department of Mines falsely alleging that the sand was found loaded on the tractors. Learned counsel then draws the attention of the Court to para 8



of the anticipatory bail application to submit that as a matter of fact one Ramashankar Rao had taken all the five tractors on hire for carrying soil mixed sand from his raiyati land for filling around his new constructed building. The sand mixed soil (Bharaith) which was loaded on the trailers appended with the tractors and the said soil was from the raiyati land of Jamabandi No. 14 recorded in the name of the grandfather of Ramashankar Rao, namely, Jurwan Rao. Learned counsel, thus, submits that the manner in which the present FIR came to be instituted that also cast an aspersion on the veracity of the allegation as alleged in the FIR. Learned counsel at the cost of repetition submits that he has been falsely implicated and, thus, intends to contest the FIR before the learned court below but also has instruction that he will deposit the alleged amount as stated in the FIR under protest to the Department of Mines so that in the event if petitioner is finally acquitted the Department of Mines will have to return the amount so deposited.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner no. 2.

Considering the submissions made by the learned counsel for the petitioner no. 2, the petitioner no. 2 above-named, in the event of his 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.5,000/- (Rupees Five Thousand) 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 Bairiya P.S. Case No. 158 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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