

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39537 of 2023

Arising Out of PS. Case No.-958 Year-2022 Thana- CHAPRA MUFFASIL District- Saran

1. Lalesh Kumar S/O Musafir Rai R/O Village- Ramgarha, P.S- Awtar Nagar, Distt.- Saran at Chapra (Bihar).
2. Abhishek Kumar S/O Santosh Prasad R/O Village- Ramgarha, P.S- Awtar Nagar, Distt.- Saran at Chapra (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Mining Officer, Mines Department, Saran At Chapra Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate
For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-10-2023 Despite of inter appearance, no one appears on behalf of the Mines Department.

2. Heard Mr. Rakesh Kumar, learned counsel for the petitioners and Mr. Shyameshwar Dayal, learned Additional Public Prosecutor for the State.

3. The petitioners are apprehending their arrest in connection with Chapra Muffassil P.S. Case No. 958 of 2022, F.I.R. dated 30.12.2022 for the offences punishable under Sections 379, 411, 353 of the Indian Penal Code, Section 21 of the MMDR Act, 1957, Section 56 of the Bihar Mineral and Concession Prevention and Illegal Mining, Transportation and Storage Rules 2019 and Section 15 of the Bihar Environment



Protection Rule, 1986.

4. According to prosecution case, truck drivers and owners of the said vehicles illegally loaded the trucks without receiving Challan and were going to sell the stolen sand.

5. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case merely on the basis of suspicion. He further submits that from perusal of the F.I.R as well as seizure list it appears that the sand has been recovered from the truck in question and one Bolero vehicle was found near the place of occurrence and the petitioners are the owner of the vehicles (Bolero) so they have been made accused in the present case only on the basis of suspicion. He further submits that the petitioners are not involved in the illegal mining of the sand. He further submits that the similarly co-accused, namely, Ramauj Rai and Om Prakash Singh have been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 27.06.2023 passed in Cr. Misc. No. 21935 of 2023 and other accused persons, namely, Pramod Kumar Pandey and Raju Kumar Yadav have been granted anticipatory bail vide order dated 30.08.2023 passed in Cr. Misc. No. 45254 of 2023.

6. The learned Additional Public Prosecutor has



vehemently opposed the prayer for bail of the petitioners.

7. Considering the aforesaid facts that the petitioners have clean antecedent and nothing has been recovered from the vehicle of the petitioners and the recovery has been made from the truck in question and they have no concern at all with the truck in question, let the petitioners, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saran at Chapra in connection with Chapra Muffassil P.S. Case No. 958 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to



move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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