

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46062 of 2022

Arising Out of PS. Case No.-760 Year-2020 Thana- BANKA District- Banka

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1. Captain Prasad Yadav @ Captain Yadav Son Of Chandehwari Maharana @ Chandeshwari Yadav R/O Village- Manjhiyara, P.S.- And District- Banka
 2. Rambachan Mahrana @ Rambachan Yadav @ Bachchu Yadav Son Of Late Yogendra Yadav @ Yogi Maharana R/O Village- Manjhiyara, P.S. And District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 02-01-2023 Heard learned counsel for the petitioner and the learned APP for the State.

The petitioners apprehend their arrest in connection with Banka P.S. Case No.760 of 2020 instituted under Sections 379/411 of the Indian Penal code, Section 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 and Section 21 MMDR Act, 1957 and section 15 of Environmental Protection Act.

As per the prosecution story, the villagers including the petitioners herein have been made accused alleging illegal mining of the sand causing revenue loss to the government.

So far as the two petitioners are concerned, the allegation is that there has been loss of Rs.4,95,000/- and with



added fine it comes to Rs.5,31,359/-.

Learned counsel for the petitioners submit that it is not the case that the sand has been found from their home and/or around it, rather it was in the village and altogether twenty five persons have been implicated including the two petitioners herein and although some of the similar situate accuseds were granted the privilege of anticipatory bail by the learned subordinate court itself, they have been denied the same.

Learned counsel further submits that irrespective of the outcome of the present petition, in view of the fact that the government has shown revenue loss, the two petitioners on their own volunteer to pay Rs.60,000/- each through the Demand Draft issued by the local State Bank of India which they will be depositing before the Nazarat of the said court.

Learned APP submits that the petitioners have been found to be have illegally mined causing revenue loss to the government and as such he opposes the grant of anticipatory bail.

Taking into account the fact that the allegations have been made against around two dozen persons of the village the sand has been found to be in the village itself, one of the co-accused since has been granted the relief by the learned sub-



ordinate court, the two petitioners are ready to pay the government Rs.60,000/- each, this Court is inclined to grant them relief.

Let the petitioners be released on bail, in the event of their arrest or surrender before the Sub-ordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs.25,000/-(Rupees Twenty Five Thousand) each with two sureties of the like amount each in connection with Banka P.S. Case No.760 of 2020 to the satisfaction of learned Chief Judicial Magistrate, Banka, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Nothing recorded in the petition shall be taken up for consideration by the learned Trial court as the same has been observed only for the grant of anticipatory bail to the two petitioners.

(Rajiv Roy, J)

Prakash Narayan /-

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