

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53631 of 2022

Arising Out of PS. Case No.-432 Year-2022 Thana- KOILWAR District- Bhojpur

1. Ram Avatar Yadav S/o Nanhak Yadav Resident of Village- Firojpur, P.S.- Chitharagaon, District- Balia, State Uttar Pradesh.
2. Srikant Yadav S/o Nand Kishore Yadav Resident of Village- Kotwa Narayanpur Saray Kota, P.S.- Naroli, District- Balia State Uttar Pradesh.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiv Prasad Gupta, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 13-01-2023 Heard learned counsel for the petitioners and learned
APP for the State in Virtual Court Proceeding.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The petitioners are apprehending arrest in
connection with Koilwar P.S. Case No. 432 of 2022 under
sections 379, 411/34 of the Indian Penal Code and BM
(CPIMTS) Amendment Rules 2021 39(i)/56 (I) MM (DR) Act
1957 Section 4 2021.

As per the prosecution story, the allegation by the
informant was against illegal mining and transportation, a raid
was conducted in which three trucks present there and huge



quantity of sand that was laying on the road side were recovered/seized.

The petitioners herein are truck owner (petitioner no.1) and the driver (petitioner no.2) who are seeking anticipatory bail.

Learned counsel for the petitioners submit that a bare perusal of the FIR would show that empty truck that was standing near the road has been seized on the pretext that the sand that was lying nearby was presumed to be loaded on the truck. This according to learned counsel for the petitioner cannot be a ground for lodging of the FIR.

It has further been alleged that the driver (petitioner no.2) of the vehicle was having meal in a nearby 'Dhaba' after parking his truck and it was co-incidence that the sand was lying therein.

The last submission is that the petitioners do not have any criminal antecedents.

The learned APP on the other hand submits that illegal mining of sand is rampant in the area and the petitioners cannot exonerate themselves from the responsibility.

Considering the fact that the petitioners do not have criminal antecedents, the truck that was seized was empty



at the time the police seized it and the petitioners are ready to cooperate in the trial as and when required by the police, this Court is inclined to grant them relief.

Let the petitioners be released on bail, in the event of their arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 20,000/- (Twenty thousand) each with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara, in connection with Ara Koilwar P.S. Case No. 432 of 2022 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Rajiv Roy, J)

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