

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7349 of 2023

Arising Out of PS. Case No.-350 Year-2022 Thana- BIHTA District- Patna

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1. KRISHNA YADAV Son of Sita Ram Yadav @ Sita Ram R/v- Vishunpur, Akhgaon Bazaar, P.S.- Chandi, District- Bhojpur
 2. KANHAIYA YADAV Son of Sita Ram Yadav R/v- Khabara, P.S.- Konch, P.O.- Dhibri, District- Gaya, Bihar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Department of Bihar Mines and Minerals Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Shushil Kumar Singh, Adv.
For the Opposite Party/s :	Mr. Shyameshwar Dayal, APP.
For the Mines Department:	Mr. Naresh Dixit, Adv.
	Mr. Brij Bihari Tiwary, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 03-10-2023 Heard learned counsels for the parties.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code, Rule 56 of Bihar Mines and Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage), Rule 21 of M.M.D.R. Act, as amended in 2021.

3. As per the FIR, all the accused persons including the petitioners are said to have been involved in illegal mining of sand. It is alleged that in course of raid 10 poclain machines and 12 mobile phones were recovered and 22 persons were



apprehended. The petitioners along with some other accused persons fled away from the spot.

4. It is submitted by learned counsel for the petitioners that no such occurrence as alleged ever took place. They have been falsely implicated in this case. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. No incriminating article has been recovered from their possession. They have been made accused in the present case because petitioner no.1 is the owner of one of the JCB and petitioner no.2 is his full brother. They have no concern with the alleged recovery. Similarly situated co-accused has been enlarged on bail by this court vide order dated 11.07.2023 passed in Cr. Misc. No. 18959 of 2023. Petitioners have one criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State as well as learned counsel for the Mines Department opposes the prayer for bail by submitting that petitioner no.1 is the owner of one of the JCB recovered at the place of occurrence and both the petitioners were also involved in illegal mining and transportation of sand.

6. Having regard to the facts and circumstances of the case, as similarly situated co-accused has been granted bail, let



the above named petitioners, be released on 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 bond of Rs. 25,000/- (Rupees Twenty 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 Bihta P.S. Case No. 350 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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