

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17144 of 2024

Arising Out of PS. Case No.-531 Year-2023 Thana- MAKHDUMPUR District- Jehanabad

1. Satish Sharma S/o Late Arjun Sharma R/o Vill - Chadh, P.S. - Makhdumpur, Dist. - Jehanabad
2. Subesh Sharma @ Butan Sharma S/o Late Uma Shankar R/o Vill - Bhimpura, P.S. - Makhdumpur, Dist. - Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Mining Officer Jehanabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Prasad
For the Opposite Party/s : Mr. Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 20-03-2024 1. Heard learned counsel for the petitioners and learned A.P.P. for the State along with learned counsel for Department of Mining.

2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code, Rules 4 and 21 of MMDR Act 1957 and Rule 56 of the Bihar Mineral (Concession illegal Mining, Transportation and Storage) Rule 2018.

3. The learned counsel for the petitioners submits that petitioners have antecedent of one case and have been falsely implicated in the instant case by the informant with an allegation that 8800 cft of sand was found stored at Naga Bagicha near village Sagarpur, and on inquiry from the local people, it transpired that petitioners were involved in illegally storing the



sand which has incurred loss to the government.

4. The learned counsel for the petitioners submits that the place, where the sand was found stored, does not belong to the petitioners and based on disclosure made by local people, it is alleged that it were the petitioners who had stored the sand at Naga Bagicha. It is further submitted that even the FIR does not disclose the name of the person who disclosed the name of the petitioner having been involved in the occurrence, which casts an aspersion on the case of the prosecution. It is further submitted that petitioner is not even a lessee of the government, as such, has absolutely no concern with the sand stored at Naga Bagaicha.

5. The learned APP along with learned counsel appearing on behalf of the Department of Mines opposes the anticipatory bail application, but are not in a position to rebut the submission of the learned counsel for the petitioners that the petitioners have been implicated in the instant case based on disclosure made by some local person but then the name of the local person is not disclosed in the FIR.

6. At this stage, the learned counsel appearing on behalf of the Department of Mines submits that from order impugned, it would manifest that petitioner No. 1 has antecedent of four cases and petitioner No. 2 has antecedent of one case, but



then at Para-3 of the anticipatory bail application, it has been stated that petitioners have antecedent of one case only.

7. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Makhdumpur P.S. Case No. 531 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, the learned trial court, before accepting the bail bonds of the petitioner No. 1, shall verify his criminal antecedent and in the event if it is found that petitioner No. 1 has antecedent of more than one case in that event the present anticipatory bail order shall not be given effect to in his favor.

(Satyavrat Verma, J)

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