

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26236 of 2024

Arising Out of PS. Case No.-69 Year-2023 Thana- BANKA District- Banka

1. Gunjan Yadav @ Piyush Kr. Yadav Son of Jay Prakash Yadav, Resident of Village- Kanauni, Police Station- Banka, Dist.- Banka.
2. Pappu Yadav @ Apurv Ranjan Yadav Son of Jay Prakash Yadav, Resident of Village- Kanauni, P.S.- Banka, Dist.- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Mining Officer, Banka.

... .. Opposite Party/s

Appearance:

For the Petitioner/s	:	Mr. Praveen Kumar, Advocate
For the Mines	:	Mr. Naresh Dikshit, Advocate
		Mr. Brij Bihari Tiwari, Advocate
For the Opposite Party/s :		Ms. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 07-05-2024 Heard Mr. Praveen Kumar, the learned counsel for the petitioners, Mr. Naresh Dikshit, the learned counsel appearing on behalf of the Mines department and Ms. Rita Verma, the learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Banka PS Case No. 69 of 2023, FIR dated 03.02.2023, registered for the offences punishable under Sections 379, 411, 188, 353, 333, 332, 147, 148, 149, 341, 323 and 307 of the Indian Penal Code and under Sections 4(1) and 21 of MMRD Act and also under Section 56 BMCPIMTS Amended Rule 2019 and 2021.



3. According to prosecution case, when the informant acting upon the secret information was on his way to the alleged place along with the police party, he saw one tractor loaded with sand proceeding towards Lakhnauri to Balarpur and when they tried to stop the tractor, the tractor started to flee. It is further alleged that during the course of apprehending the tractor driver, around twenty to twenty-five persons variously armed with *lathi*, *danda* and rod started assaulting the patrolling team and during assault, the tractor driver bit by teeth on the finger of the informant and also assaulted by hammer on his right hand's finger. It is further alleged that the said persons took away the tractor and the tractor driver while the hammer, key of tractor and shawl of tractor was kept by the police. It is further alleged that the whole incident was captured in the mobile and on the basis of captured footage, local chowkidar identified twelve persons, who participated in the alleged occurrence.

4. Learned counsel for the petitioners submits that petitioners have falsely been implicated in the present case and the allegation levelled in the FIR is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. He further submits that upon perusal of the FIR, it appears that there is no specific allegation of any assault or overt act attributed against the petitioners and the petitioners are neither the owner nor



the driver of the truck in question and they have been implicated in the present case merely on the basis of the video footage, which was identified by the local chowkidar.

5. The learned counsel appearing on behalf of the Mines department as well as the learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioners and submits that although petitioner no. 1 has clean antecedent, but petitioner no. 2 carries one criminal antecedent other than the present one, however, he fairly admits that petitioner no. 2 is on bail in the pending matter.

6. Considering the aforesaid facts and circumstances and the fact that there is no specific allegation of any assault or overt act attributed against the petitioners and they have been implicated in the present case merely on the basis of video footage, let the petitioners, above-named, in the event of their arrest or surrender before the trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory 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, Banka, where the case is pending in connection with **Banka PS Case No. 69 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:



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

(ii). If the petitioners tamper 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 trial Court 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 trial Court 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)

Shahnawaz/-

U		T	
---	--	---	--

