

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29427 of 2024

Arising Out of PS. Case No.-525 Year-2023 Thana- SHAHKUND District- Bhagalpur

1. Hari Ray @ Muso Rai son of Mohin Rai Village- Malmala Bhulani Ps- Shahkund Sajour Dist- Bhagalpur
2. Prabhash Kumar @ Chho Rai @ Chicho Rai @ Prabhash Rai Son of Mohin Rai Village- Malmala Bhulani Ps- Shahkund Sajour Dist- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Bihar, Mines and Mineral Bihar, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Chandra
For the Opposite Party/s	:	Mr. Arbind Kumar Pandey (APP-84)
For the DBMM	:	Mr. Naresh Dikshit
		Mr. Brij Bihari

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 18-09-2024 1. Heard learned Counsel for the petitioners and learned Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out of Bahera Police Station Case No. 525 of 2023, dated 08.12.2023, disclosing offences under Sections 379 of the Indian Penal Code and Sections 11/56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage Rules, 2019 and Amendment Act, 2011).
3. The prosecution case, as per the First Information Report, is that on 08.12.2023, the informant received information that under the Sajaur Police Station near Andharu River



illegal mining, transportation and storage of sand was going on. On such information the police conducted raid and upon search illegal mining of sand from reserve land was found. After measurement it was found that a total 5400 cubic foot of sand was illegally extracted. Local villagers and owner of the adjacent land, namely, Baby Devi, told the raiding party that the petitioners, along with other accused persons, were engaged in illegal mining and selling of sand.

4. Mr. Krishna Chandra, learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case on the basis of disclosure of their names by the adjacent land holder. He further submits that the petitioner no. 1 is having one criminal antecedent not under Bihar Minor Mineral Concession Rules (referred to as 'BMMC Rules') and the petitioner no. 2 has criminal antecedent relating to BMMC Rules. He further submits that the informant has assessed that quantity of extracted sand from the land, in question, is worth Rs. 3,61,828/-.
5. On the other hand, learned counsel for the Mines and Minerals Department vehemently opposes the prayer for bail of the petitioners and submits that upon enquiry from



the adjacent land holder it has come to light that the petitioners, along with other accused persons, were indulged in illegal mining of the sand since 2020. During the course of investigation also the witnesses have said that the petitioners were extracting sand illegally from the land, in question. One of the petitioners is having criminal antecedent under BMMC Rules.

6. Having regard to the submissions made on behalf of the parties and taking into consideration the nature of allegation and the fact that illegal mining of sand is very common near the rivers in the State of Bihar, accordingly, I am not inclined to grant the petitioners privilege of anticipatory bail.
7. This application is, accordingly, dismissed.

(Anil Kumar Sinha, J)

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