

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39190 of 2024

Arising Out of PS. Case No.-559 Year-2023 Thana- BELAGANJ District- Gaya

1. Santosh Kumar @ Santosh Singh Son of Vyas Singh R/O Vill.-KAJIPUR, Daulatpur P.S.- Belaganj, Dist.- Gaya
2. Shivendra Thakur @ Shivendra Kumar Son of Rajnandan Thakur R/O Vill.- Sripur, P.S.- Belaganj, Dist.- Gaya
3. Mantu Kumar @ Dharamjeet Kumar Son of Jagdish Mahto @ Jagdish Prasad R/O Vill.- Sripur, P.S.- Belaganj, Dist.- Gaya.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Syed Mojibur Rahman, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 06-09-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

02. In the present case, the petitioners are apprehending their arrest in connection with Belaganj P.S. Case No. 559 of 2023, registered for the alleged offences under Sections 379, 411 of the Indian Penal Code, Section 21 of MM (D & R) Act, 1957 and Rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021.

03. As per prosecution case, the petitioners and other co-accused persons were found committing theft of sand by



illegally mining it from the banks of river *Falgu*. In this manner, they excavated about 22,000 cubic feet of sand and stored it at certain identified place and thus caused revenue loss of Rs. 39,40,500/- to the Bihar Government.

04. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case merely on saying of the village *chowkidar* and except for the statement of *chowkidar*, no material has come up against the petitioners during investigation. There is no eye witness and the petitioners have no concern with the places from where the illegally mined sand was recovered. A number of persons have been made accused in this case along with the petitioners with vague allegation. Learned counsel further submits that under the provisions of Rule 61 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021, an official written complaint needs to be filed and investigation on the basis of FIR is beyond jurisdiction. Learned counsel further submits that sand mining has been auctioned at different places and the Government gets royalty from it and there is no occasion for causing revenue loss to the Government. Learned counsel further submits that the petitioners have been made accused in this case on account of



their criminal antecedents. Learned counsel further submits that similarly situated co-accused persons have been granted anticipatory bail by this Court vide order dated 16.04.2024 passed in Criminal Misc. No. 8761 of 2024, order dated 15.05.2024 passed in Criminal Misc. No. 29590 of 2024 and dated 12.07.2024 passed in Criminal Misc. No. 36147 of 2024, respectively.

05. Learned A.P.P. for the State opposes the prayer for anticipatory bail. Learned APP submits that the name of the petitioners transpired during investigation and by the act of the petitioners and co-accused, huge loss of revenue was caused to the Government.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the completely vague nature of allegation without any substantive material and further considering the possibility of false accusation, let the petitioners above named, in the event of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya/concerned court in



connection with Belaganj P.S. Case No. 559 of 2023, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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