

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61859 of 2023

Arising Out of PS. Case No.-171 Year-2023 Thana- PIRO District- Bhojpur

-
-
1. Satendra Singh @ Satyendra Singh Son Of Mukhtar Singh R/O Vill - Salathua, Post Office - Salathua, P.S. - Kudra, Distt. - Kaimur At Bhabua.
 2. Dharmendra Kumar Singh @ Dharmendra Kumar Shah Son Of Shiv Kumar Shah R/O Vill - Ibrahimpur, P.S. - Piro, Dist. - Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Mining Inspector, Distt. Mining Officer, Bhojpur At Ara, The Department Of Mines And Geology, Govt. Of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar Singh, Adv.
For the Opposite Party/s	:	Mr. Shyameshwar Dayal, APP
For the Dpt. of Mines & Geo.	:	Mr. Brij Bihari Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

4 27-02-2024 Heard Mr. Arun Kumar Singh, learned counsel appearing on behalf of the petitioners, Mr. Shyameshwar Dayal, learned APP for the State and Mr. Brij Bihari Tiwary, learned counsel appearing on behalf of the Department of Mines and Geology.

2. The petitioners seek pre-arrest bail in connection with Piro P.S. Case No. 171 dated 2023 registered for the offence(s) punishable under Section 379 of the Indian Penal Code and Section 56(I) (II) of the Bihar Minerals (Concession, Prevention of illegal Mining, Transportation, Storage), Amendment Rules - 2021.

3. As per the allegation made in the FIR, the total quantity of 5,000 CFT of sand was found near the rice mill of the petitioners.

4. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are not responsible for storage of the huge quantity of sand near their rice mill, which is not on the plot of the petitioners. The petitioners have not been named in the FIR and their names have been surfaced in course of investigation, on the basis of allegation made by the Mine Inspections Team.

5. Mr. Brij Bihari Tiwary, learned counsel has tendered his appearance on behalf of the Department of Mines and Geology, Government of Bihar, on the basis of sufficient material confirming the fact that petitioners were engaged in illegal mining submitted that they were involved in extraction of illicit sand, without license, and vehemently opposed the prayer for grant of bail of the petitioners.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

7. Considering the rival submissions made on behalf of the parties, as well as, the seizure list, it appears that the same has been drawn by the Officials of Department of Mines and

Geology unilaterally and no credible independent witness has put signature, as per, the requirement of the law. The petitioners have denied the allegation to the extent that the plot/land, on which the said illegal sand was found, do not belong, for which they are required to produce the revenue records relating to the adjoining plot, from where huge quantity of the sand was found deposited and seized by the Mines and Geology Department. If the land don't belong to the petitioners, they can not be held to be involved in the alleged commission of crime. After examining the detail *Jamabandi*, if the District Court finds that *prima facie* petitioners can not be held responsible to have stored the sand illegally, then in that case the petitioners, above named, are directed to be released on bail, in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate - Ist Class, Bhojpur at Ara in connection with Piro P.S. Case No. 171 dated 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. Or in alternative, the petitioners may deposit the compounding fee in accordance with the provision of Section

56(2) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

9. The Court below is directed to verify the criminal antecedent of the petitioners, as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioners, as what has been stated in paragraph no. 3 then this order will lose its force automatically.

(Purnendu Singh, J.)

Ashishsingh/-

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