

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72165 of 2024

Arising Out of PS. Case No.-167 Year-2024 Thana- SANDESH District- Bhojpur

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1. Dharmendra Kumar S/o Hanuman Yadav @ Haluman Yadav Resident of Vill- Sanadiya, P.S.- Ara Mufassil, District- Bhojpur at Ara
 2. Hanuman Yadav @ Haluman Yadav Son of Late Samhut Yadav Resident of Vill- Sanadiya, P.S.- Ara Mufassil, District- Bhojpur at Ara

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mines Commissioner-cum-Principal Secretary, Department of Mines and Geology, Vikash Bhawan, Patna Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

2 04-10-2024 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 Sandesh Police Station Case No. 167 of 2024, disclosing offences punishable under Sections 379, 120(B), 411 of the Indian Penal Code and Sections 192 and 194 of Motor Vehicle Act, 1988.

3. The prosecution case, as per the First Information Report, is that on 17.06.2024, at about 05:00 AM, the police, while on patrolling, saw three tractors loaded with sand. Upon seeing the police party, the drivers of the tractors succeeded in fleeing away but all the three tractors along with the trolley have been seized. In the mean while, nearby local people gathered but no one was ready to be the independent witness and accordingly, seizure list was prepared in presence of two police constables. It



has been alleged that 120 CFT illegally extracted sand was loaded on each of the tractors.

4. Learned Counsel for the petitioners submits that the petitioner no. 1 is the son of petitioner no. 2. The petitioner no. 2 is the owner of one of the three seized tractor vehicles along with its trailer which is Mahindra Tractor bearing its registration no. BR03GA 2284 with its trailer bearing Registration No. BR03GA 2281. The capacity of each of the tractor to carry sand is 100 CFT. As per Rule 56 (2) of the 2021 Amendment Rules, the compounding fee of Rs. 25,000/- has been fixed along with the cost of mineral. The petitioners are ready to pay the compounding fee as well as the cost of sand of 120 CFT i.e. Rs. 15,000/- before the Mining Officer/Assistant Mining Officer.

5. Regards being had to the submissions advanced on behalf of the parties and taking into consideration the provision of the Rule 56 (2) of the 2021 Amendment Rules, I am inclined to grant the petitioners privilege of anticipatory bail, subject to deposit of Rs. 40,000/- (Forty thousand), before the Mining Officer/ Assistant Mining Officer within a period of three weeks from today.

6. This application is, accordingly, allowed.

7. Let the petitioners, above named, in the event of



their arrest or surrender before the Court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur, at Ara, in connection with Sandesh Police Station Case No. 167 of 2024, subject to the conditions (i) laid down under Section 438 (2) of the Code of Criminal Procedure, and (ii) the petitioners will produce a receipt granted by Mining Officer showing deposit of Rs. 40,000/- (Forty thousand), at the time of furnishing of bail bonds.

8. The money deposited by the petitioners shall be without prejudice to the value of the sand.

9. The petitioners shall be at liberty to pursue the compounding before the concerned authority as per law who shall decide claim of compounding on its own merit.

10. However, the money deposited by the petitioners as condition of bail shall be taken into consideration for deciding the claim of the petitioners for compounding.

(Anil Kumar Sinha, J)

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