

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81912 of 2024

Arising Out of PS. Case No.-48 Year-2024 Thana- NIMCHAKBATHANI District- Gaya

1. Munna Kumar @ Munna Yadav S/o Suresh Prasad @ Suresh Yadav R/o vill - Chandachak, P.S. - Neemchak Bathani, Distt.- Gaya
2. Sanoj Kumar @ Sanoj Yadav S/o Suresh Yadav R/o vill - Chandachak, P.S. - Neemchak Bathani, Distt.- Gaya
3. Sabis Yadav @ Sabis Kumar @ Uttam Yadav S/o Suresh Yadav R/o vill - Chandachak, P.S. - Neemchak Bathani, Distt.- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Asgher Najmi, Adv.

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 11-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioners apprehend their arrest in connection with Neemchak Bathani P.S. Case No. 48 of 2024 registered for the offences punishable under Sections 379 and 411 of the Indian Penal Code, Section 21 of the Mines and Minerals (Development and Regulation) Amendment Act and Section 56 of the Bihar Minerals (Concession Prevention of Illegal Mining, Transportation & Storage) Amendment Act.

3. In course of raid conducted by the police and Mining Department to restrain the illegal mining, 13000 cubic feet sand was found stored near the bank of Paimar river and at



some distance the police also found 2000 cubic feet sand and, in this way, a huge loss of Government revenue has been caused. In course of interrogation, the villagers present on the place of occurrence, disclosed that the petitioners and others are engaged in illegal mining of sands and they used to store the sand at the place of occurrence.

4. Learned counsel for the petitioners referring to the FIR contended that save and except the disclosure made by the local people that the petitioners are engaged in mining and storage of the sands, there is no material suggesting their complicity in the crime. The petitioners have neither any concern with the place from where the alleged illegal sand was recovered nor with the illegal transportation of sand. It is the contention of the petitioners that only because of their past criminal antecedent, their names have been implicated in this case. Drawing the attention of this Court to the seizure list, it is next contended that though allegedly the name of the petitioners have been disclosed by the local people but, surprisingly, the seizure list witnesses are none else but the police personnel and, as such, *mala fide* is writ large on the part of the police personnel. It is lastly contended that be that as it may, the petitioners undertake that they will fully cooperate in the



proceedings of the Court.

5. On the other hand, learned counsel for the State vehemently opposed the bail application and submitted that the criminal antecedent of the petitioners clearly discloses their complicity in the present crime.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of allegation and the materials available on record, coupled with the infirmities in the search and seizure, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Gaya in connection with Neemchak Bathani P.S. Case No. 48 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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