

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85132 of 2023

Arising Out of PS. Case No.-538 Year-2023 Thana- KOILWAR District- Bhojpur

1. ALLAUDDIN ASHRAF @ ALAUDIN ASARAF, male, aged about 46 years, SON OF LATE MD. NEHALUDDIN
2. MD. AFTAB AHMAD @ MD. AFTAB ALAM @ AFTABL ALAM, Gender- Male, aged about 50 years, SON OF MD. USMAN GANI
Both are the RESIDENTS OF MOHALLA- SUROWDHA COLONY, POLICE STATION- KOILWAR IN THE DISTRICT OF BHOJPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate

For the Opposite Party/s : Mr.Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 09-04-2024 Heard Mr. Sunil Kumar, learned counsel appearing on behalf of the petitioners and Mr. Shyameshwar Dayal, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Koilwar P.S. Case No. 538 of 2023 registered for the offence(s) punishable under Sections 379, 411, 353, 384/341 of the Indian Penal Code and Section 56(1)(2) of BMC Rules and Section 4/21 of MMDR Act.

3. As per the allegation made in the FIR, which was lodged on the basis of report submitted by the Mining Officer, that petitioners including other co-accused, named therein, are



engaged in the illegal mining of sand and during raid two poklain machines and one motorcycle were seized.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners are innocent and they are of neighbouring village and are not engaged in illegal mining of sand in any manner. He further submitted that the poklain machines and vehicle which have been seized don't belong to the petitioners. On these grounds, petitioners seek to be released on pre-arrest bail.

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

6. Considering the nature of allegation, as well as, the fact that in course of investigation, the police has found that the petitioners are the liner, however, in want of specific evidence against the petitioners that they were engaged in the illegal mining with the help of the machines and other vehicle engaged in the same and causing huge loss to the State exchequer, the petitioners, above named, are directed to be released on pre-arrest bail, **subject to the condition that petitioners shall file their individual affidavit before the District Court stating therein that poklain machines and the motorcycle, as described in the FIR and the seizure list,**



don't belong to them, nor it belong to any member of their family, then 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 Chief Judicial Magistrate, Bhojpur, Ara in connection with Koilwar P.S. Case No. 538 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

Sanjay/-

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