

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1395 of 2021

Arising Out of PS. Case No.-255 Year-2021 Thana- JHANJHARPUR District- Madhubani

1. PUJA KUMARI W/o Gopal Krishna R/o Village- Chukti, Ward No. 13, P.S.- Mansi, District- Khagaria.
2. Akash Sharma S/o Abhimanyu Sharma R/o Village- Tilauli, Dharmer, Deoria, Salempur, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Chief Secretary Govt. of Bihar, Patna. Bihar, Patna.
3. The Director General of Police, Bihar, Patna. Bihar, Patna.
4. The Principal Secretary Home Deptt., Govt. of Bihar, Patna. Bihar, Patna.
5. The Superintendent of Police, Madhubani. Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Basant Kumar Choudhary, Sr. Adv. Mr. Shashi Bhushan Kumar, Adv.
For the Respondent/s	:	Ms. Divya Verma, A.C. to AAG 3

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 09-03-2022 Heard learned Senior counsel for the petitioner and
learned A.C. to AAG 3 for the State.

The instant application has been filed for a direction to the respondent authorities to release the petitioner as his custody is arbitrary and in violation of Article 21 of the Constitution of India, to quash the order dated 20.11.2021 as contained in Annexure-2 and for other reliefs.

In view of the order that the Court proposes to pass, the Court is not going into the details of the merits of the case of the parties.



The relevant facts in brief are that the petitioners happen to be the wife and son of two accused persons who have been made accused in connection with Jhanjharpur P.S. Case no. 255 of 2021 registered under sections 323, 332, 353, 506 and 34 of the Indian Penal Code and section 30 of the Arms Act. Chargesheet no. 1 of 22 dated 14.1.2022 has been submitted under sections 341, 321, 506 and 34 of the Indian Penal Code and section 30 of the Arms Act and a copy of the same has been brought on record as Annexure-4 to the supplementary affidavit.

It is submitted by learned Senior counsel appearing for the petitioner that from contents of the FIR itself it would transpire that all the sections which have been levelled against the petitioners in the FIR, are bailable and thus both the petitioners should have been enlarged on bail/released from custody immediately and their being detained is in violation of Article 21 of the Constitution of India. Learned Senior counsel further places reliance on section 436 of the Cr.P.C.

It is submitted by learned counsel for the State that from perusal of the supplementary affidavit it transpires that bail petition bearing BP no.4 of 2022 has already been preferred by the accused persons and the same is pending in the learned Court below.



Having heard learned counsel for the parties and taking into consideration the materials on record, the instant application is disposed of with the direction to the learned Court below to dispose of the bail petition [BP no. 4 of 2022 (Gopal Krishna & Ors. versus State of Bihar)] arising out of G.R. No.1839 of 2021/Jhanjharpur P.S. Case no.255 of 2021 at the earliest preferably within a period of one week of receipt/communication of a copy of this order.

(Partha Sarthy, J)

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