

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31871 of 2023

Arising Out of PS. Case No.-53 Year-2023 Thana- BASANTPUR District- Siwan

1. Pradeep Mahto @ Pradeep Kumar Mahto Son Of Late Vidya Mahto R/O Village- Surapur, P.S.- Hussainganj, District- Siwan
2. Lallu Kumar Mahto @ Lalu Kumar Mahto Son Of Late Vidya Mahto R/O Village- Surapur, P.S.- Hussainganj, District- Siwan

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary

For the Opposite Party/s : Mr.Suman Kumari Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 20-07-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case registered for the offence punishable under Sections 379, 461, 411/34 of the Indian Penal Code.

3. Allegation against the petitioners is that they fled away from the spot and the person who caught by the people is driver of the vehicle on which the stolen articles was loaded and he disclosed the name of the petitioners.

4. Learned counsel for the petitioners submits that the petitioners are innocent and has been falsely implicated in this case. He submits that nothing incriminating have been recovered from the possession of these petitioner or from their house. He submits that the apprehended person disclosed the name of the petitioners. He further submits that petitioners have one criminal antecedent as stated in para-3 of this application.



5. Learned APP for the State opposing the prayer for bail submits that the petitioners were also involved in the present case. He also relied upon the judgment of the Apex Court in the case of **Indresh Kumar Vs. The State of UP & Anr. (Criminal Appeal No. 938 of 2022)**, whereby the Court has held that 'Statements under Section 161 of Cr.P.C. may not be admissible in evidence, but are relevant in considering the prima facie case against an accused in an application for grant of bail in case of grave offence.

6. Considering the nature of offence, I am not inclined to enlarge the petitioners on bail. Accordingly, their prayer for anticipatory bail is rejected in connection with Basantpur P.S. Case No. 53 of 2023.

7. However, if the petitioners surrender before the learned court below within a period of six weeks from today and pray for regular bail, the same shall be considered by the learned court below on the same day without being prejudiced by this order.

(Anjani Kumar Sharan, J)

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