

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26976 of 2023

Arising Out of PS. Case No.-16 Year-2022 Thana- BARUN District- Aurangabad

Gautam Kumar Son Of Vinay Singh Yadav Resident Of Village - Tendura
Haibat, P.S. - Narari Kala Khurd, Distt. - Aurangabad

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bachan Jee Ojha, Adv

For the Opposite Party/s : Mr.Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 08-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case registered for the offence punishable under Section 379 of the Indian Penal Code.

3. Allegation against the petitioner is of stealing the tractor.

4. Learned counsel for the petitioner submits that the petitioner is innocent, not named in the FIR and has been falsely implicated in this case. He submits that the name of the petitioner has surfaced in this case during the course of investigation on the confessional statement of co-accused Pintu Kumar. He further submits that petitioner has 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 petitioner was 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 petitioner on bail. Accordingly, his prayer for anticipatory bail is rejected in connection with Barun P.S.Case3 No. 16 of 2022.

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

(Anjani Kumar Sharan, J)

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