

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38614 of 2023**

Arising Out of PS. Case No.-233 Year-2021 Thana- AAJAM NAGAR District- Katihar

Khuda Dosh S/O Kalimuddin Ansari R/O Village- Jokar Palsa, P.S-
Azamnagar, Distt.- Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Musowir

For the Opposite Party/s : Mr. Narendra Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 30-10-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in Azamnagar P.S. Case No. 233 of 2021 registered for the offences punishable under Section 392 of the Indian Penal Code pending in the Court of learned C.J.M., Katihar, District- Katihar.

3. As per the prosecution case, on 22.09.2021 when the informant was returning from Bank along with his brother, in the way four miscreants intercepted them and on point of arms they taken away the bag containing cash of Rs. 1,80,000/-, one laptop and Aadhar card etc.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. He submits that the petitioner is not named in the F.I.R., his name has been



transpired in this case on the basis of confessional statement of co-accused. He further submits that similarly situated co-accused has been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 22.11.2022 passed in Cr. Misc. No. 39128 of 2022. The petitioner has no criminal antecedent as mentioned in para-3 of the bail application.

5. Learned APP for the State vehemently opposing the bail petition submitted that the petitioner is also involved in the present case. He also relied upon the judgment of the Hon'ble 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 the 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 facts and circumstances of case, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

(Anjani Kumar Sharan, J)

anand/-

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