

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32825 of 2023**

Arising Out of PS. Case No.-611 Year-2022 Thana- SHEKHPURA District- Sheikhpura

ARCHANA @ ARCHANA DEVI WIFE OF AJAY KUMAR R/O Village-
Kamra, P.S.Ariyari, District-Sheikhpura

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar

For the Opposite Party/s : Mr. Damodar Prasad Tiwary

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

2 21-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is apprehending her arrest in a case registered for the offences punishable under Sections 302, 201 and 120(B)/34 of the Indian Penal Code pending in the learned court below.

3. As per the prosecution case, petitioner along with other co-accused persons kidnapped the daughter of the informant with her child. It is also alleged that they have killed the informant's daughter and her four year old child by giving them by inhaling an overdose of ether.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He further submits that the petitioner is made accused on



the basis of the statement of co-accused, namely, Manish recorded under Section 161 Cr.P.C. and 164 Cr.P.C.. He submits that similarly situated other co-accused persons have already been granted bail by different coordiante benches of this Court vide order dated 26.06.2023 passed in Cr. Misc. No. 15665/2023 and vide order dated 19.05.2023 passed in Cr. Misc. No. 8875/2023. He further submits that petitioner has got no criminal antecedent as stated in para-3 of the bail application.

5. Per contra, learned APP for the State vehemently opposing the bail application and submits that the name of the petitioner is transpired from the confessional statement of the co-accused, namely, Ashish Kumar. He relies upon the judgment of Hon'ble Apex Court passed in the case of “**Indresh Kumar Vs. the State of U.P. & Anr. (Criminal Appeal No.938 of 2022)**” whereby the Court has held that “Statements under Section 161 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. Hence, she does not deserve anticipatory bail.

6. Considering the arguments of the parties, perusal of the records, nature of the offence and the judgment of the Hon'ble Apex Court passed in the case of *Indresh Kumar*



(*supra*) case, I am not inclined to enlarge the petitioner on bail in connection with Sheikhpura P.S. Case No. 611/2022. Accordingly, her prayer for anticipatory bail is hereby rejected.

7. However, if the petitioner surrenders before the learned Court below within a period of six weeks from today and seeks regular bail, the learned Court below would pass the order, preferably, on the same day, without being prejudiced by this order considering the fact that petitioner is a lady.

(Anjani Kumar Sharan, J)

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