

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33861 of 2023

Arising Out of PS. Case No.-549 Year-2022 Thana- PARBATTa District- Khagaria

=====
KANHAIYA KUMAR S/O SANTOSH CHAUDHARY R/O Village-
Sirajpur, P.S- Parbatta, Distt.- Khagaria.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

=====
Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh

For the Opposite Party/s : Mr. Gauri Shankar Gupta

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

2 24-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 356 and 379/34 of the Indian Penal Code later on Sections 392 and 411 of the Indian Penal Code were also pending which is pending in the learned court below.

3. As per the prosecution case, on 13.12.2022 at about 6:30 P.M. the informant along with Chandan Kumar were going towards Bithala Fort. In the meantime, three persons riding on a motorcycle came from Maraiya and snatched the mobile of Chandan Kumar and fled away.

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 confessional statement of the Sunny Kumar. He submits that



the petitioner is neither named in the F.I.R. nor any theft article has been recovered from the conscious possession or from the house of the petitioner. He further submits that petitioner has got two 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 petitioner is also involved in the present case. Relying upon the judgment of the Hon'ble Apex Court passed in the case of ***"Indresh Kumar Vs. the State of U.P. & Anr. (Criminal Appeal No. 938/2022)"*** 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, he does not deserve anticipatory bail.

6. Considering the 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 Parbatta (Maraiya) P.S. Case No. 549/2022. Accordingly, his prayer for anticipatory bail is hereby rejected.

(Anjani Kumar Sharan, J)

ajay/-

U		T	
---	--	---	--

