

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37847 of 2023

Arising Out of PS. Case No.-101 Year-2021 Thana- NAUTAN District- West Champaran

1. Hira Yadav Son Of Adalat Yadav Resident Of Village- Bhagha, Bhagwanpur Ps- Nautan, Distt- West Champaran
2. Gopal Yadav Son Of Adalat Yadav Resident Of Village- Bhagha, Bhagwanpur Ps- Nautan, Distt- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra

For the Opposite Party/s : Mr. Anil Prasad Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 31-07-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend their arrest in Nautan P.S. Case No. 101 of 2021 registered for the offences punishable under Section 395 of the Indian Penal Code pending in the Court of learned Chief Judicial Magistrate, Bettiah, West Champaran.

3. As per the prosecution case, it is alleged that ten miscreants on the point of gun took away Tractor along with Tailor of the informant.

4. Learned counsel for the petitioners submits that the petitioners are innocent and has falsely been implicated in



this case. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. He submits that the petitioners are not named in the FIR, the petitioners are made accused in the present case on the basis of confessional statement of the co-accused. The petitioners have got no criminal antecedent as mentioned in para-3 of the bail application.

5. Learned APP for the State opposes prayer for anticipatory and submits that the petitioners are involved in the present case. He also relied upon the judgment of Hon'ble Apex Court in case of ***Indresh Kumar vs. The State of UP and 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 facts and circumstances of case, I am not inclined to enlarge the petitioners on anticipatory bail. The prayer for anticipatory bail of the petitioners is hereby rejected.

7. However, if the petitioners surrender before the learned Court below within six weeks from today and seek



regular bail, the learned Court below would pass order on the same day in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J)

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