

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37257 of 2023

Arising Out of PS. Case No.-259 Year-2021 Thana- SIKANDRA District- Jamui

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1. Pramod Yadav Son Of Sitaram Yadav Resident Of Village - Pansagwa, P.S. - Kawakol, District - Nawada
 2. Nitish Kumar Son Of Sakendra Yadav Resident Of Village - Mahadeo Bigha, P.S. - Warsaliganj, District - Nawada

... .. Petitioner

Versus

The State Of Bihar, Patna

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Pramod Kumar
For the Opposite Party/s : Mr. Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

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

2. The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 392 and 412 of the Indian Penal Code pending in the learned court below.

3. As per the prosecution case, the petitioners along with other co-accused person are said to have snatched mobile of the informant.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. He further submits that petitioners are not named in the F.I.R. and the basis of the confessional statement of the co-



accused Ajit Kumar, the petitioners have been made accused in the present case. He submits that there is no incriminating article has been recovered from the conscious possession of the petitioners and the mobile of the informant was recovered from the co-accused Ajit Kumar this fact has also come in the impugned order itself. He further submits that petitioners have 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 allegation levelled as the petitioners is serious in nature. 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 of 2022)”*** whereby this Court held that “Statements under Section 161 Cr.P.C. may not be admissible in evidence but are relevant in considering the the prima facie case against an accused in an application for grant of bail in case of grave offence”. Hence, they do not deserve anticipatory bail.

6. Considering the nature of the offence, I am not inclined to enlarge the petitioners on bail in connection with Sikandra P.S. Case No. 259/2021. Accordingly, their prayer for anticipatory bail is hereby rejected.



7. However, if the petitioners surrender before the learned Court below within a period of six weeks from today and seek regular bail, the learned Court below would pass the order, preferably, on the same day, without being prejudiced by this order.

(Anjani Kumar Sharan, J)

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