

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37254 of 2023

Arising Out of PS. Case No.-509 Year-2022 Thana- NAUBATPUR District- Patna

SUBHAM KUMAR SON OF SRI SUNIL KUMAR @ BALETHA SINGH
RESIDENT OF MOHALLA FARIDPURA, PS NAUBATPUR, DISTRICT-
PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar

For the Opposite Party/s : Mr. Dr. Ajeet Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 31-07-2023 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 385 and 387/34 of the Indian Penal Code and Sections 8(C)/21(b)(c) of the NDPS Act pending in the learned court below.

3. As per the prosecution case, 15.2 gram of smack in 38 packets, a narcotic substance has been recovered from the co-accused Rishi Raj. On interrogation, he disclosed the name of the petitioner that the petitioner along with other co-accused persons are involved in demanding ransom from the local shopkeepers as well as indulged in selling of smack.

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 co-accused, namely, Rishi Raj. He submits that petitioner has not been served the notice under Section 67 of the N.D.P.S. Act seeking explanation of taking his name by spot arrested person which is against the mandatory provision. 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 petitioner also involved in the present. 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, he does not deserve anticipatory bail.

6. Considering the nature of the offence, I am not inclined to enlarge the petitioner on bail in connection with Naubatpur P.S. Case No. 509/2022. Accordingly, his 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 this fact that there is no incriminating article has been recovered from the conscious possession of the petitioner.

(Anjani Kumar Sharan, J)

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