

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38330 of 2023

Arising Out of PS. Case No.-303 Year-2021 Thana- SURSAND District- Sitamarhi

MD. EHSAN @ MD. AHSAN Son of Abdul Jabbar Resident of village-
Sursand, ward no. 02, P.s. - Sursand, Distt. - Sitamarhi

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Uday Kumar

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 11-09-2023 Heard the parties.

2. The petitioner apprehends his arrest in connection with Sursand P.S. Case No.303 of 2021, registered for the offence punishable under Section 302, 34 of the Indian Penal Code.

3. Allegedly, the petitioner is said to have been involved in the murder of the brother of informant.

4. It is submitted by learned counsel for the petitioner that petitioner is quite innocent and have committed no offence. He has been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. There is no specific overt act against the petitioner. There is no eye witness in the present case and the petitioner has been made accused in the present case on the



basis of suspicion. He submits that the petitioner is not named in the FIR, his name transpired in the present case on the basis of confessional statement of apprehended co-accused Avinash Kumar and he has already been granted regular bail by a co-ordinate Bench of this Court. He further submits that similarly situated co-accused has been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 07.08.2023 passed in Cr. Misc. No.27908 of 2023. Petitioner has one criminal antecedent.

5. Learned APP for the State opposed the prayer for anticipatory bail. He further submits that the name of the petitioner has transpired in the present case on the basis of confessional statement of co-accused Avinash Kumar. In this regard the ratio laid down by the Apex Court in the case of **Indresh Kumar vs. State of Uttar Pradesh in Cr. APP. No.938 of 2022** may also be taken into consideration in which it has been observed that the statements made under Section 161 of Cr.PC. are relevant in considering the *prima facie* case against an accused in an application for grant of bail in cases of grave offence. He further submits that the said judgment has may not been placed before the Hon'ble co-ordinate Bench during the course of argument in Cr. Misc. No27908 of 2023.



6. Having regard to the facts and circumstances of the case as well as considering the judgment of Hon’ble Apex Court in the case of **Indresh Kumar** (supra), I am not inclined to enlarge the petitioner on bail. The prayer for grant of anticipatory bail on his behalf is hereby rejected.

7. Accordingly, this application is dismissed.

(Anjani Kumar Sharan, J)

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